

NOMOTHES
THE
INTERPRETER,
Containing the genuine Signification of such obscure
WORDS and TERMS
Used either in the
Common or Statute
LAWES
OF THIS
REALM.

First Compiled by the Learned Dr. COWEL, and now
Enlarged from the *Collections* of all others who have written in this kind.

WITH
An Addition of many Words omitted by all former Writers, and
pertinent to this Matter, with their ETYMOLOGIES as often as they Occur:

AS ALSO
TENURES whether *Jocular*, or others *Statutes*
and *Records*, wherein the Alterations are expressed, and their Agreement
or Dissonancy, with the Law at present Declared.

Whereto is subjoyned,
An APPENDIX, containing the ancient Names of
Places here in ENGLAND, very necessary for the Use of all Young
Students, who intend to Converse with old *Records*, *Deeds* or *Charters*.

*The Second Edition, wherein many Errors and Mistakes in the former are
carefully Corrected.*

By THO. MANLEY of the Middle-Temple, Esq;

London, Printed by the Assigns of Richard Atkins Esq; and Sir Edward Atkins Knight,
for H. Twyford, Tho. Bassett, J. Place, and H. Sawbridge, 1684.

INTERPRETER

OF THE

COMMON OF STATUTE

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BY THE MANNER of the Middle-English, Edw.

Printed by the Alders of Richard Knight, and Sir Robert Knight, for the Alders, the Alders, and the Alders, 1588

The PREFACE.

I Shall not Apologize for this Work, as knowing it to be more convenient to leave it to the Judgment of learned Readers, whose Understanding knows how to set a Value upon Laborious Improvements : Yet in regard it hath been the Method by Others taken up, and is indeed somewhat in the Mode, I think it not amiss to follow in a beaten Track, and to render You in short the Reasons inducing me to Undertake, what, I hope, I may without Boast say I have Endeavored to perform.

The Ground-Work upon which I Build, is Cowell's Interpreter, an Excellent Book both as to its Matter and Composure, and did not deserve that severe Arraignment that it hath of late suffered : Those intermixtures of His in the Civil Law being absolutely necessary to be known, by him who would have the Repute of a learned and well read Common Lawyer ; and his few Defects (for they are not many for so great an Undertaking) might, at least, after so many Years have been passed over in silence. And let Others boast of themselves what they please ; I am not ashamed to own Him, and to acknowledge, that I only follow and make more publicly useful that Path which his Industry first laid Open to us : Wherein to use his own words, That whoever shall observe most Faults therein, I, by gleaning after, will Collect as many omitted by him, as he shall shew committed by me.

It is true, I have drawn in whatever I could find considerable either in other Authors, or could attain from any Persons Learned, not sparing Pains to search into the Cabinets of Antiquity ; So that, I hope, in this Collection

The PREFACE.

will be found whatever is most desirable for attaining Knowledge in this kind.

I have in the perusing Cowell, omitted several Matters, as unfit for the time; contracted and abbreviated Others; In some places commenting upon, and dilucidating his Matter, and adding thereto what of the Law hath been either new made, or altered since his time; so that his Defects therein are supplied.

I have also gleaned after the Book, intituled, The Law Dictionary, wherein are many good things, which I have hinted, as every ingenious Reader will discern; but withall, have added some Centuries of words therein totally omitted.

As for Etymologies, I have followed the course laid open before me, retaining such as were apt, amending some that were a little too wide, rejecting others that seemed impertinent, and in their places inserting what seems more agreeable to that sort of Learning; in all places avoiding, as much as possible, the impropriety of extracting terms from two different Languages.

I have reserved to it the former Name, and call it The Interpreter, which is most proper, as opening those obscure terms which otherwise are with great difficulty understood, although the Students of the Law be no Tyroes in other Learning; or, at least, ought not to be, for a Lawyer should profess Philosophy: And this Book thus completed, I hope will attain the end aimed at, viz. To be most useful and advantageous not only to the Students of the Law, but to all Gentlemen who are desirous to improve their Knowledge; which I dare assure them, if with diligence they peruse the same.

I need not subjoyn the Characters of any other Languages used therein, because I write to the Learned, nor anticipate them with Advertisements; but leave the whole to their more discerning Judgments, to find the same in their proper places.

N O M O O E T H S O R T H E I N T E R P R E T E R.

A B

A Is the letter of the Alphabet with the Hebrews, Greeks, Latines, and other Nations, and called by the Heb. *Alph*; the Arab. *Aliph*; Chaldees and Syriac, *Alaph*; Armenians, *Alp*; Ethiopians, *Alph*; and Greeks *Alpha*. *A* prefix to words in English stands equivalent with *un* in French, as a man; *un homme*: But *A* prefix according to the Greek acceptation becomes privative, and signifies as much as *without*, v. g. in Greek *Orphan*, a name, by prefixing *A*, it becomes *Orphanos*, *fine nomine*, without a Name, or that will not own his Name.

Abactore (*Abductor*) Drives away, or indeed stealers of Cattel or Beasts, not by one and one, but in great numbers at once; and therefore by *M. S.* thus distinguished from *fur*, *qui unum ovem surripuerit*, as *fur catidetur*, *qui gregem ut Abactor*.

Abate May be derived from the French word *Abatre*, *destruere*, *prostrare*, to break down, or destroy; in the vulgar sense, it signifies to diminish, or take away, as to *abate* the courage of a Man; It is in the Writers of the Common Law used both actively and passively, as to *abate* a Cause or Fursler, *Old Nat. Breu. fol. 45*. Which in *Wash. 2. cap. 17* is plainly interpreted to beat it down; and to *abate* a Writ, is by some exception to defeat, or overthrow it; *Britton, cap. 28*. And in this sense, it is used with two significations, one general, another special; general, as in the former examples; and again, in *Kitchin, fol. 172*. *Abate* *Messon* is to run down, cast down a House; special, as in the *Old Nat. Breu. fol. 119*. A stranger *abated*, that is, entered upon a House or Land, void by the death of him that last possessed it, before the Heir take his Possession; and so keepeth him out; wherefore as he that putteth him out of Possession, is said to disseise; so

A B

he that keepeth in between the former Possessor and his Heir, is said to *abate*. And in the Stat. *De conjunction Fratriu*, 34 Ed. 1. Stat. 2. The Writ of the Demandant shall be *abated*; that is, shall be disabled, frustrated, or overthrown. So in *Strawford's Pleas of the Crown*, fol. 148. the Appeal *abated* by Cousinage, that is, the accusation is defeated by deceit. *Ames 11 H. 6. cap. 2*. The Justices shall cause to be abated the said Writ; and hence cometh a word of Art *Abatementum*. Vide *Illustration*: *Abatement*, derived from the French *Abatement*, sometimes signifies the Act of the *Abator*, as in the abatement of the Heir into the Land before he hath agreed with the Lord; *Old Nat. Breu. 91*. Sometimes the affection or passing of the thing *abated*, as abatement of the Writ; *Kitch. fol. 144*. And in this signification, it is as much as *exceptio dilatoria* with the Civilian; *Old Nat. Breu. 91*. or rather an effect of it, for the exception alledged, and made good, works the *abatement*. And this exception may be taken either to the insufficiency of the matter, or to the uncertainty of the allegation, by the misnaming of the Plaintiff, Defendant, or原告 to the variance between the Writ and the Specialty; or *Record*; to the uncertainty of the Writ; Count or Declaration; or to the death of the Plaintiff or Defendant, *New Terms of the Law*, verb. *Abatement of a Writ*, &c. To prevent *abatement* of Writs of Record, See the Stat. 16 Car. 2. cap. 2. Co. *Entries*, fol. 69. c. & 205. d. & 319. c. *Abatement* is called in Latine *Intrusio*, but it may rather be called *Intrusio*, or *intrusio per interpositionem*, to distinguish it from *Intrusion* after the Death of Tenant for life. And in his *Co. on Lib. fol. 277*. he shews the difference between *Abatement*, *Disseisin*, *Intrusion*, *Deforcement*, *Usurpation* and *Purpresture*. He that will read more of this, may read the *New Book of Entries*, verb. *Brief*. See also *Writs*, *Misfeasance* and *Variance*, and the Book called *The Digest of Writs*.

B

Abator,

Abator, Is he that abateth, that is, intrudeth into a House or Land, void by the death of the former Possessor, and not yet entered, or taken up by his Heir, *Old Nat. Brev. fol. 115. P. 1. fol. 76.*

Abbot, In France, *Abbat*, or *Abbatiss*, the Government of a Religious House, with the Reverend and Peculiar subject to an Abbot, as a Bishoprick is to a Bishop. The word is used Anno 34 & 35 H. 8. cap. 17, 18. *Sciatis, Sc. quod ego Iffabella Comitissa Pembrock pro salute anime mee, Sc. Dedi Deo & Abbatia de Nizam wickam iuba pradiam Abbatiam, &c.*

Abbat or **Abbot**, *Abbas* in Latine, in French *Abbe*, a Spiritual Lord having the Rule of a Religious House, according to our Common Law: Skillful Linguists derive it from the Syriack *Abba* *Pater* & *Epistola* *Novel Constitut. 215* *Sed* *Archidiaconus*, terms him *Archimandrita*; others *Consiatanga*, or *Archimandritus*, *Hotoman in verb. Feuds*. Of these, some here in England were mitred, some nor, *Stuart Annals*, pag. 442. Such as were mitred, were exempted from the Jurisdiction of the Diocesan, having themselves Episcopal Authority within their Limits, and were also Lords of the Parliament. Of this kind, thus saith *Corasius*, *Aliqui Abbates habent jurisdictionem Episcopalem, ad quosdam Ecclesia pleno jure pertinet, in eorum Monasteriis Episcopus nihil exerceat*, cap. 24. *qua.* And these were called *Abbots Sovereign*, *2 R. 2. cap. 4.* And *Abbots Generalis*, as *Mr. Forte* noteth in his *History of Generosity*, pag. 126. The other sort were subject to the Diocesan in all Spiritual Government, *cap. Monasteria 18. quast. cap. Abbat & ca. subdandi, cum quibusdam frequentibus lib. Anter. 16. quast. 7. & ca. cum venerabilis, extra de religiosis domibus*. And as *Abbots*, so were there *Lords Priors* also, who both had exempt Jurisdiction, and were Lords of Parliament, as *Sir Edward Coke* makes out, *De jure Eccles. fol. 48. d. 10*. Of which *Lords Abbots and Priors* that sat in Parliament, some reckoned but Twenty Six, but *Sir Edward Coke* says, They were Twenty Seven *Abbots and Two Priors*, *1 Co. super Lit. fol. 77. d. 1*. In the Parliaments of *R. 2.* there were but Twenty Five *Abbots and Two Priors*: But *Stuart* in *Ed. 1.* in *De jure Clericali* *fol. 121. d. 1*. mentions more, etc. *monach. Buch. ubi Abbas* with the Monach of the same House being called *The Convent*, made a Corporation; but such *Abbot* was not chargeable by his Predecessor's Act, but by their common Seal; or for such things as came to the use of his House: neither for the Debt of his Monk before his entry in Religion, nor though the Creator had a Specialty. See for this the *Abridgment* under the same word.

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places, *Cro. Rep. 2. par. fol. 184. Littera autem nunquam ajunt abutere, sed terram proximam adiacere*. And *Comdore Frey*, Limits were distinguished by *Markes* raised on purpose, which were called *Abbot's*; whence we may guess our *Abbot* to be so.

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Old Authors have termed it a Freedom or Liberty, because whoever hath this word inserted in a Charter or Grant, hath not only the Forfeitures and Amerciements of all others within his Fee for Transgressions; but also is himself free from the controul of any within that Compass.

Abjuration (*Abyuratio*) is a renouncing by Oath, and signifieth in our Law a sworn Banishment, or forswearing of the Realm, *Stamf. Pl. Cor. lib. 2. cap. 40.* saith out of *Polyd. Virgil*. So great was the devotion towards the Church in King *Edward the Confessor* Time, till the 22 of H. 8. that if a Man having committed Felony, could get into the Church or Church-yard before he were apprehended, he might not be taken thence to the usual Trial at Law, but confessing his Fault to the Justices at their coming, or to the Coroner, might be admitted to his Oath, to *abjure* or forsake the Realm, *Anno 7 H. 7. cap. 7.* The form and effect of this you have in the *Old Abridgment of Statutes*; an ancient Tract, *De Officio Coronatorum*, *Cromptons Office of Coroner*, fol. 260. b. *New Book of Entries*, verb. *Abjuration*. *Holmes Mirror of Justices*, lib. 1. cap. *De Officio del Coroner*. This part of our Law was in some sort practised by the *Saxons*, as appeareth by the Laws of King *Edward*, set out by Mr. *Lambard*, num. 10. but more directly by the *Normans*, evidenced by the *Grand Customary*, cap. 24. where the form of the Oath is likewise set down, with the rest of the proceedings therein, very agreeable with Ours. This Clemency something resembles that of the *Roman Emperors* towards such as fled to the Church. *Lib. 1. Co. lit. 12.* or to the Images themselves, *Eod. lit. 25.* And also that of the Cities of Refuge mentioned by *Moses*, *Exod. 21. 13.* *Num. 35. 6. 11. 12.* *Deut. 19. 2. 9. 10.*

Of all the Circumstances belonging to this *Abjuration*, read the *New Terms of the Law*, and *Stamf. ubi supra*. But this grew at last to be but a perpetual confining of the Offender to some Sanctuary, whereupon *abjuration* of his Liberty and free Habitations, he would chuse to spend his life, as appears *Anno 22 H. 3. cap. 14.* And by 21. *Yas. cap. 28.* this benefit is wholly taken away, and consequently *Abjuration*, 2. *Inf. fol. 829.* See *Sanctuary*.

Abolition, (*25 H. 8. cap. 21.*) A destroying. The Licence given to a criminal Accuser, to desist from further prosecution.

Abridge, (*Abbreviare*) Cometh of the French *Abreger*, to make shorter in words, yet still retains the sense and substance; but in the Common Law it seems more particularly used for making a Declaration or Count shorter, by subtracting or severing some of the substance. As for example, a Man is said to *abridge* his Plaintiff in Office, or a Woman her Demand in an Action of Dower, that hath put into the Pleadings, or Demand, any Band not in the Tenure of the Tenure or Defendant; if the Tenant pleads Non-tenure, Joynt-tenure, or the like, in abatement of the Writ; the Demandant may *abridge* his Plaintiff, that is, he may leave out that part, and pray that the Tenant may answer the rest, to which he hath not yet pleaded; and the reason is, because the certainty is not set down in such Writs: And though the Demandant hath *abridged* his Plaintiff in part, yet the Writ remains good

still for the rest: So that here *abridge* is not *contrabere*, but rather *subtrahere*, Bro. tit. *Abridge*, mens. 3. Anno 21 H. 8. cap. 31. Of this the *Civilians* have no use, by reason of certain chetulous Clauses they ordinarily affix to the end of every Article in their Label or Declaration.

Abjuring, (*Abjurationem*) See *Abjuration*.

Abrogate, *Abrogare*, To disannul or repeal, as to *abrogate* a Law, that is, to lay aside or repeal it, *anno 5. 6 E. 6. cap. 3.*

Abteenters, or Des Abteenters, A Parliament so called, held at *Dublin* 10. May, 28 H. 8. and mentioned in Letters Patents, dated 29 H. 8. See *Cv. Inf. fol. 358.*

Abutals, See *Abutals*.

Accedas ad Curiam, Is a Writ that lies for him who hath received false Judgment in a Court-Baron or Hundred-Court, being directed to the Sheriff, as appeareth by *Dyer*, fol. 189. num. 30. Like as the Writ *de falso Judicio* lies for him that hath received false Judgment in the County-Court: The form you may see in *F. N. B. fol. 18. d.* And in the *Register*, fol. 9. b. where it is said, This Writ lies as well for Justice delayed, as Judgment falsely given: It is a Species of the Writ *Recordare*, *Reg. Orig. fol. 36.* & *F. N. B. ubi supra*.

Accedas ad Vice-comitem, Is a Writ directed to the Coroner, commanding him to deliver a Writ to the Sheriff, who having a *Pone* delivered him, suppressed, *Reg. Orig. 83.*

Acceptance, Is a thing in good part, and as it were a kind of agreeing to some Act done before, which might have been undone and avoided if such acceptance had not been: For example, If a Bishop before the Stat. *Elizabeth* lease part of the possessions of his Bishoprick for term of years, reserving Rent, and dies, and after another is made Bishop, who accepts, that is, takes or receives the Rent when it is due, and ought to be paid; by this acceptance the Lease is made good, which else the new Bishop might have avoided: The like is, if Baron and Feme seized of Land in right of the Feme, joyn and make a Lease or Feoffment by Deed, reserving Rent; the Baron dies, the Feme receives or accepts the Rent: by this the Feoffment or Lease is confirmed, and shall bar her of bringing a *Cui in vita*, &c. on *Lit. fol. 21. b.*

Accessory or Accessary, (*Accessarius vel Accessarius*) *Particeps criminis*, Is used in our Common-Law otherwise than among the *Civilians*; for whereas with them it is generally taken for any thing depending upon another, here, though it be so likewise, yet most commonly and notoriously it signifieth a Man guilty of a felonious Offence, not principally, but by participation, as by command, advice or concealment. And a Man may be *accessary* to the offence of another after two sorts, by the Common-Law, or by Statute; and by the Common Law two ways also, viz. either before or after the Fact; Before the Fact, as where one commandeth or adviseth another to commit a Felony, and is not present at the execution thereof; for his presence maketh him also a Principal; wherefore there cannot be an *accessary* before the Fact in Manslaughter,

slaughter, because Man-slaughter is sudden, and premeditated; *Co. lib. 4. fol. 44. 2.* *Accessory* after the Fact, is, when one receiveth him whom he knoweth to have committed a Felony; 3. *Accessory* by Statute, is he that abetteth, counselleth or concealeth, committing, or having committed an Offence made Felony by Statute; for though the Statute make no mention of Abettors, yet they are by interpretation included. Of all these consult, *Stamf. Pl. Cor. lib. 1. cap. 45, 46, 47, 48.* There is also an *accessory* of an *accessory*, as he that wittingly receiveth an *accessory* to a Felony; But a Woman in such case shall not be an *accessory* for helping her Husband, *Lib. Ass. 26. Pl. 51. Coron. Fitz. 197. Stamf. Pl. Cor. lib. 1. cap. 48.* And the Law of England is, that so long as the Principal is not attained, the *Accessory* may not be meddled with; *Stamf. ubi supra. Co. lib. 4. fol. 43. b.* In the highest and lowest Offences, there are no *Accessories*; but all are Principals; as in Treason, *crimen lesa Majestatis*, the highest; and in Riots, Forcible Entries, and other Trespasses, *Vi & Armis*, the lowest, *Co. on Lib. fol. 71.* Of this Subject, read more in *Crompt. Just. fol. 37. b. 38, 39.* If a Man counsel a Woman to murder the Child she hath in her Womb, and afterward the Child is born, and then murdered by the Woman, in the absence of him that so gave the counsel; yet he is *accessory* by his counselling before the Birth of the Infant, and not counterminding it, *Dyer, fol. 186. pl. 2.*

Accompant, (*Computus*), Is in the Common Law taken for a Writ, or Action, which lieth against a Man, that by means of Office or Business undertaken, is to render an account to another; as a Bayliff towards his Master or Guardian in Socage towards his Ward; and the like; as you shall find particularized in *Fitz. Nat. Brev. fol. 116.* But if an Accomptant be not allowed reasonable Expence and Costs, and/or charged with more Receipts than he ought, his next Friend may sue a Writ of *Ex parte* taken out of the Chancery, directed to the Sheriff, to take four Mainperners, to bring his Body before the Barons of the Exchequer at a certain day, and to warn the Lord to appear there the same day, to answer and satisfy, *and not to delay.*

Accord; That is, Agreement between Two, or more, to satisfy a Trespass or Offence done by one to another, for which he hath agreed to make satisfaction, in recompence; which shall be a good bar in Law, if the other, after the Accord performed, should commence any new Action for the same Trespass, *Termin de la Ley, fol. 14.*

Accroche, From the French *Accrocher*, to fix: This word is used *Anno 23. Ed. 3. Stat. 3. cap. 8.* and signifies there as much as to Accroach, and the French used it for delay, as *Accrocher un processe*, to delay the proceedings in a Suit for some time. Vide *Encroachment*.

Achat, Cometh of the French, *Achat, emptio*, or *ordinatio*, and is taken to signify a Contract or Bargain, *Brook. tit. Contrab. from whence happily Purveyors in the 36 E. 3. were ordained to be call'd Achaters*, because of their frequent Bargain making; hence also with seeming reason enough may be deriv'd the word *Astates*, signi-

fying Provision brought in the Market for great Feasts.

Acquiescencia de Shiris & Hundredis, To be free from Suit and Service in Shires and Hundreds, to which purpose it is said, *In Regist. Priuat. de Cokesford, Quod Prior non debet facere sciam ad Comitatum Norwici vel in Hundredo pro Manerio de Rudham cum pertin.*

Acquiescencia de Writis, This Writ we find in the *Register of Writs*, fol. 158. being in truth a *Justicies*, and lies for a Surety against a Creditor, that refuseth to acquit him after the Debt is paid.

Acquital, Is derived from the French *Acquitter*, as that from the Latine Compound *Acquiescere*, and signifyeth in Law to discharge, or keep in quiet, and that the Tenant be safely kept from any Entries or Molestations for any manner of Service issuing out of the Land to any Lord, that is, above the Mesne; hereof we say, *Es quietus est*, that is, he is discharged, *Co. on Lib. 2. fol. 148.* It signifies also ordinarily a deliverance, and setting free from the suspicion or guilt of an Offence, as he that is discharged of a Felony by Judgment, is said to be *acquiescencia de feloniam*, and if it be drawn in question again, he may plead *autre fois acquit*. This is two-fold, *Acquital in Law*, and *Acquital in Fact*; *Acquital in Law* is, when Two are indicted, the one as Principal, the other as Accessory; the Principal being discharged, the Accessory by consequence is also *acquitted*, and in this case the Accessory is *acquitted* by Law, so is the Principal in Fact, *Stamf. Pl. Cor. 168.* *Acquital in Fact* is either by *Verdict*, or by *Battel*; By *Verdict*, when by a Jury he is found *Not Guilty* of the Offence whereof he is charged; By *Battel*, as when in an Appeal, the Plaintiff yieldeth himself *Grant*, or vanquish in the Field; the Judgment shall be, that the Appeller shall go quit, and that he shall recover his Damages, *Co. 2. Inst. 385.*

Acquittance, *Acquiescencia*, Cometh from the French *Quiter*, that is, *accepto ferre*, signifyeth a Release or Discharge in Writing of a sum of Money, or other Duty which ought to be paid or done: Also the Verb (*acquit*) the Participle (*acquitted*) and the Noun (*acquittal*) signify a discharge or clearing from an Offence objected, as *acquitted* by Proclamation, *Smith de Rep. Ang. pag. 76. Stamf. Pl. Cor. 168. Brook. tit. Acquital*. This word differs from that which in the Civil Law is called *Acceptatio*, because that may be by word without Writing, and is nothing but a fained Payment and Discharge, where no real Payment is had. Nor can it be said to be *Specks*, which is a witnessing the payment or delivery of Money, which discharges not, unless the money be paid, *Termin de la Ley, verb.*

Acquitance, Cometh from the French *Acquit*, that is, *ager*, is a quantity of Land containing in length forty Perches, and four in breadth, or according to that proportion, be the length more or less; and if a Man erect any new Cottage, he must lay four Acres of land to it after this Measure, *Anno 31. Eliz. cap.* With this Measure agrees *Crompton*, in his *Jurisdiction of Courts*, fol. 220. though he saith also, That according to the Customs of divers Countreies the Perch differeth, being in some

some places, and most ordinarily but 16 foot and a half, but in *Staff*, 24 foot, as was adjudged in the Exch. in the Case between Sir *Ed. Aston* & Sir *Joh. B.* In the Statute made concerning sowing Flax (24 H. 8. c. 4. eight score Perches make an Acre, which is forty multiplied by four.

Action, Actio, Is defined by *Brañon*, lib. 3. cap. 1. In the same manner as by *Justinian* lib. 4. *Instit. titulo de Actionibus*, viz. *Actio nihil aliud est quam jus prosequendi in iudicio quod alicui debetur*, & is divided into *personalem*, *realem*, et *mixtam*, *Co. Inst.* 2. fol. 40. A personal Action is that which one man may have against another, by reason of any Contract for Money or Goods, or for any Offence done by him, or some other, for whose Fact he is answerable, *Brañ. lib. 3. cap. 3. nu. 2.* A real Action is defined to be, whereby a Defendant claims Title to have a Freehold in any Lands or Tenements, Rents or Commons, in Fee-simple, Fee-tail, or for life, *Brañ. ibid. nu. 3.* And every Action real is either *Possessory*, that is, of his own Possession & Seisin, or *Ancestral* of the Seisin or Possession of his Ancestor, *Co. lib. 6. fol. 3. Writs of Right, Writs of Entry, &c.* And their several Appendixes, as *Grand-capoe*, *Petit-capoe*, *Receipt*, *View*, *Ayd-Prayer*, &c. being real Actions, took place, & swelled the Titles of our Year-Books heretofore, but now grown much out of use.

Action mixt, Is that which lyeth as well against or for the thing which we seek, as against the person that hath it, and is called *Mixt*, as having a respect both to the thing and the person, *Brañ. lib. 3. ca. 3. nu. 5.* For example, the division of an Inheritance between Co-heirs, or Co-partners, called in the Civil-law (*Actio familia exciscunda*): Secondly, The division of any particular thing being common to more; called also (*actio de communis dividundo*): which *Brañon*, *Cujacius*, *Wesembachius*, allow to be mixt; of which *Briston* discourseth at large in his 71. Chap. In the *Terms of the Law*, verb. *Actio mixt*: It is said to be a Suite by the Law, to recover the thing demanded, and damages for the wrong done; as in *Assize of No. Diff.* which Writ, if the Disseisor make a Feoffment to another, the Disseisee shall have against the Disseisor, and the Feoffee, or other Tenant, and thereby shall recover Seisin of his Land, and Damages for the mean Profits, and the wrong done; and so is an Action of Writ, and *Quodre Imp.*

Action, Is also divided by the Civilians into *Civilem* & *Pratoriam*, whereof one ariseth out of the Civil-Law in general, the other from some *Pratorian* Edict. And a division not unlike this may be made in the Common-Law of England, one part growing from the ancient Customs, the other from the Statute, *Bro. tit. Actio sur le Stat.*

Actions, Also are divided into civil, penal and mixt, *Co. Vo. 6. fol. 61. a.* Action civil is that which tends only to the recovery of that which by reason of any Contract, or other like cause, is due to us: As if a man by Action seek to recover a sum of Money formerly lent, &c.

An Action penal, Aims at some penalty or punishment in the party sued, be it Corporal or Pecuniary: As in the Action *Legis Aquilia*, in the Civil-Law; and in the Common-Law, the next Friends of a man feloniously slain or wounded, shall pursue the Law against the Offender, and bring him to condigne punishment, *Br. 1. 3. c. 4.*

Action mixt, Seeks both the thing whereof we are deprived, and a penalty for the unjust detention. As in an Action for Tythes upon the Statute 2 E. 6. cap. 13. See *Co. on Lit. fol. 262. b.*

Action, Is also (according to the form of the Writ) divided into such as are conceived to recover either the simple value of the thing challenged, or the double, treble or quadruple, *Brañ. lib. 3. cap. 3. nu. 6.* So doth a *Decies tantum* lye against *Embracers*, *F. N. B. fol. 171.* And against Jurors that take money for their Verdict of either or both Parties: And any other Action upon a Statute that punishes any Offence by restitution, or fine proportionable to the Transgression.

Action, Also is *Prejudicial*, (otherwise called *Preparatory*) or *Principall*. *Prejudicial*; is that which grows from some doubt in the Principal: As if a man sue his younger Brother for Land descended from his Father, and it is objected, that he is a Bastard, *Brañ. lib. 3. cap. 4. num. 6.* For this poynt of bastardy must be tryed, before the cause can further proceed, and therefore termed *prejudicialis*, *quia prius judicanda.*

Action, Is either *Ancestral* or *personal*; *Stam. Pl. Cor. 9.* *Ancestral* seems to be that which we have by some right descending, from our Ancestor: and that *Personal*, which has beginning in & from our selves. There is also *Actio Ancestral Droiturel* & *Actio Ancestral Possessory*, which see in *Co. 2. In. f. 291.*

Action upon the Case, *Actio super casum*, Is a general Action given for redresse of wrongs done without force against any man, and by Law not especially provided for; for when you have any occasion of Suit, that neither hath a fit, nor certain form prescribed; then the Clerks of the Chancery in ancient time conceived a fit form of Action for the Fact in question, which the Civilians call *Actio in factum*, and the Common Lawyers, *Actio in super casum*. And whereas in the Civil-Law; there are two sorts of these Actions; one termed *Actio in factum praescriptis verbis*; the other *Actio in factum pratoria*; the former grounded upon words passed in Contract; the other more generally upon any Fact touching either Contract, or Offence formerly not provided against: This Action upon the Case seemeth more to resemble the *Actio Pratoria in factum*, then the other; because in the perusal of the Book of *Entries*, & *Bro. Abridgment*; I find that an Action upon the Case lieth as well against Offences, as breach of Contract. See more of this in *Trespas*.

Action upon the Statute, *Actio super Statutum*, Is brought upon the breach of a Statute, whereby an Action is given that lay not before; As where one commits Perjury, to the prejudice of another; he who is endamaged, shall have a Writ upon the Stat. that is; where the Stat. gives the Suit or *Actio* to the party grieved; or otherwise to one person certain: And this *Actio* seems to be like any Action in the *Law imperial*, either upon *Edictum Pratoris*, *Plebiscitum*, or *Senatus consultum* for as the *Prator*, so the common people in *Comitia*; and the Senators or Nobility, in *Curia*, or *Senatu*, had power to make Laws, whereupon the *Prator*, or other Judges permitted Action: So our High Court of Parliament maketh Stat. against such Offences as are either newly grown, or more and more encreased, and the Judges are obliged

to entertain their Pleas, that commence Actions against the Breakers of them.

Action, Is perpetual or temporal (*perpetua vel temporalis*) and that is called perpetual, whose force cannot be determined by time, Of which sort were all civil Actions among the Romans viz. Such as grew from Laws, Decrees of the Senate, or Constitutions of the Emperors, whereas Actions granted by the Prætor, fell within the year. So we have in England perpetual and temporary Actions: And indeed all Actions may be called *perpetual*, that are not expressly limited. As divers Statutes give action, so they be pursued within the time by them prescribed: As for example, the Statute of 1 Ed. 6. cap. 1. gives Action for three years after the Offences committed, and no longer. And the Statute of 7 H. 8. cap. 3. doth the like for four years; and that of 31 Eliz. cap. 5. for one year and no more; and the Act for uniformity 14 Car. 2. cap. 4. limits some things to two, some to three months, and some to more. But as by the Civil-Law, no actions were at last so perpetual, but that by time they might be prescribed against; So in our Common-Law though actions may be called perpetual, in comparison of those that be expressly limited by Statute, yet there is a means to prescribe against real actions within five years, by a Fine levied, or a Recovery suffered; as you may see Further in the words *Fine and Recovery*, and also *Limitation of Assize*.

* **Action popular**, Is given upon the breach of some penal Statute, which every man that will may sue for himself and the King, by Information, or otherwise: and because this action is not given to one especially, but generally to any of the Kings people that will sue, it is called an *Action popular*; but in this case, when one hath begun to pursue an action, no other may sue it; and in this as it seems, it varies from an *Action popular* by the Civil-Law, *Termes de Ley*.

Action, Is farther divided *Actionem bona fidei & stricti juris*, which division hath good use in the Common-Law, though the termes are not to be found in any of their Writers; therefore we refer them to the Civilians, and particularly *Wesemb.* in his *Paratitles, De Oblig. & aE*.

Action of a Writ, Is a phrase of speech used when one pleads some matter, by which he shews the Plaintiff had no cause to have the Writ he brought, yet it may be that he may have another Writ or Action for the same matter. Such a Plea is called a *Plea to the action of the Writ*; whereas, if by the Plea, it should appear that the Plaintiff hath no cause to have an action for the thing demanded, then it shall be called a *Plea to the action, Termes de Ley*.

Acts of Parliament, Are positive Laws, which consist of two parts; that is, the words of the Act, and the sense and meaning, which both joyned together make the Law.

Action Burnel, A Statute so called, made 13 E. 1. Anno 1285. ordaining the *Statute Merchant*, and was so termed from a place named *Action Burnel*, where it was made, being a Castle sometime belonging to the Family of Burnel, after wards of *Lovel in Shropshire*.

Atuary, (*Atuarius*) Is the Clerk or Scribe, that Registers the Canons and Constitutions of the Convocation.

Addition, (*Additio*) Is both the English and

French word made of the Latine, and signifieth in our Common-Law a Title given to a man besides his Christian and Sir-name, shewing his Estate, Degree, Mistry, Trade, place of Dwelling, &c. As for example, additions of Estate are *Yeoman, Gentelman, Esquire*, and such like; additions of degree, are names of Dignity, as *Knight, Earl, Marquess, Duke*: additions of Mistry, are *Scrivener, Painter, Mason, Carpenter*, and all other of like nature; for Mistry is the Craft or Occupation, whereby a man gets his Living: Addition of Towns, as *London, Kingston, Chester, &c.* and where a man hath Household in two places, he shall be said to dwell in both of them; so that his addition in either shall suffice. For the use of these additions in original Writs of actions personal, Appeals and Indictments: It is provided by the Statute, 1 H. 5. cap. 5. that in Suits or Actions, where process of *Writ* lies, such additions should be to the name of the Defendant, to shew his Estate, Mistry, and place where he dwells; and that Writs, not having such additions, shall abate, if the Defendant take exception thereto, but not by the Office of the Court; and this was ordained by that Statute, that one man might not be vexed or troubled by the *Writ* of another, but that by reason of the certain addition, every person may be known, and bear his own burden: For more particular additions of Town, see *Bro. tit. Addition*. See also *Crompton Just. of Peace*, fol. 95. 96. Co. 2. part. Inst. fol. 595. & 666. and Stat. 27. El. cap. 7.

Abdouborgs, See *Redoubers*.

Adeling, Or *Etbeling*, from the Saxon *Edelan*, or the Dutch *Edel*, signifying Excellent, and was a Title of Honour among the *Angles*, properly pertaining to the Kings Children, and Successors of the Crown; whereupon King *Edward*, the Confessor being himself without Issue, and intending to make *Edgar* (to whom he was great Uncle by the Mothers side) the Heir of his Kingdom, gave the honourable stile of *Adeling*. *Rog. Hoveden, parte poster. suor. Annal. fol. 347. a. Vide etiam Leges sancti Ed. Conf. M. S. a. Will. Cong. recept. cap. antepenult.* See more of this word in *Spelman's Glossary*.

Adjournment, (*Adjournamentum*) the same with the French *Adjournement*, and signifies *denunciatio*, or *disiunctio*, that is, by our Common-Law an assignment of a day, or a putting off untill another day and place. So adjournment in *Eyre* (25 E. 3. Statute of *Purveyors*, cap. 18.) is an apPOINTMENT, of a day, when the Justices in *Eyre* mean to sit again, and *Adjournment* hath the same signification in 2 E. 3. cap. 11. See *Bro. Abridg. tit. Adjournment*. The bastard Latin word (*ajournamentum*) is used among the *Burgundians*, as Mr. *Skene* notes in his Book *de verbo Signif. verbo Adjournatus*, out of *Cassianus de consuet. Burg.* See *Prorogue*.

Adjudication, (*Adjudicatio*) A settlement by Judgment, Decree or Sentence, 16 & 17 Car. 2. cap. 10.

Ad inquirendum, Is a Writ *judicial*, commanding inquiry to be made of any thing touching a cause depending in the Kings Court for the better execution of Justice; as of *Bastardy, Bondmen*, and such like; whereof, see great diversity in the Table of the *Judicial Register, verbo ad inquirendum*.

Ad jura Regis, Is a writ that lies for the Kings Clerk against him that sought to eject him, to the Prejudice of the Kings Title in Right of his Crown, *Reg. of Writs fol. 61. a.*

Admeasurement, (*Admensuratio*) Is a Writ which lyeth for the bringing of those to a Mediocrity, that usurp more than their part: and it lieth in two cases, one is termed *Admeasurement of Dower*, *Admensuratio dotis*, where the Widow of the deceased holdeth from the Heir or his Gardian, more in the name of her Dower, than of right is belonging unto her, *Regist. Orig. fol. 171. a Fitzherb. Nat. Brev. fol. 148.* The other is *Admeasurement of Pasture*, *Admensuratio Pastura*, which lyeth between those that have Common of Pasture appendant to their Freeholds, or Common by Vicinage, in case any one or more of them do surcharge the Common with more Cattel than they ought, *Reg. Orig. fol. 156. b. F. N. B. fol. 125.* * This Writ lies not for the Lord, nor against the Lord, but the Lord may distrain the Beasts of the Tenant that are surplussage: But if the Lord overcharge the Common, the Commoner hath no remedy by the Common-Law, but an Assize of his Common, *Termes de la Ley 24.*

+ **Adminicle**, (*Adminiculum*) Aid or support *Anno 1 Ed. 4. cap. 1.*

Administrato, (*Administrator* in Lat.) Is in the sense of our Common-Law taken for one that hath the goods of a man dying intestate, committed to his charge by the Ordinary, and is accountable for the same, when ever it shall please the Ordinary to call him thereto. In this peculiar sense, this word is not used in all the Civil or Canon-Law, but more generally for those that have the Government of any thing. However the signification came to be restrained among us, it much matters not. But there was a Statute made 31 E. 3. cap. 11. whereby power was given to the Ordinary, to appoint these Administrators, and to authorise them as fully as Executors, to gather up and dispose the Goods of the deceased, so as they should be accountable for the same as Executors. And before that by the Statute *Westm. 2. 13 E. 1. cap. 19.* It was Ordained, that the goods of persons dying intestate, should be committed to the Ordinaries disposition, who should be bound to answer his Debts as far as his Goods would extend. * Against such an *Administrator*, and for him an Action will lye as for an *Executor*, and he shall be charged to the value of the Goods, and no farther, unless by his own *false Plea* or *Wast*: If the *Administrator* die, his Executors are not Administrators; but it behoves the Ordinary to commit a new Administration. And if a stranger, that is not *Administrator* or *Executor*, take the Goods, and administer of his own wrong, he shall be charged and sued as an *Executor*; and not as *Administrator*; but if the Ordinary make a letter, *Ad colligendum bona defuncti*, he that hath such a letter, is not *Administrator*; but the Action lies against the Ordinary, as if he had the goods in his own hand. *Termes de Ley sit. Administrator.*

* **Administrator durante minore etate**, Cannot sell the Goods of the deceased, unless it be of necessity, for payment of Debts, or *bona peritura*, for he hath his Office *pro bono & commodo* of the Infant, and not for his prejudice, and his Administration ceaseth at the Infants age

of Seventeen years, *Co. 5. Rep. Prince's Case* Where one hath Goods only in an inferior Diocese, yet the Metropolitan of the same Province pretending that he had *bona notabilia* in divers Diocesses, commits *Administration*; this is not void, but voidable by sentence, because the Metropolitan hath power over his whole Province; but if the Ordinary of a Diocese commit *administration*, when the party hath *bona notabilia*, such administration is merely void, because by no means he can have jurisdiction of the Case.

Administratrix, (Lat.) She that hath such power and goods committed to her.

Admiral, (*Admiratus*, *Admirallus*, *Admiralis Capitaneus*, or *Custos maris*,) and derived of the French *Amiral*, significeth both there, and with us, a high Officer or Magistrate, that hath the Government of the Kings Navy, and the hearing of all Causes belonging to the Sea, *Crompt. Jur. fol. 88. An. 13. R. 2. Cap. 15. 15 R. 2. cap. 3. 2 H. 4. cap. 11. 2 H. 4. cap. 6. 23 H. 8. 15.* This Officer is in all Kingdoms of Europe that border upon the Sea. This Magistrate among the Romans was called *Præfetus classis*, as appeareth by *Tully*, in *Verrem*. 7. Mr. *Gwin*. in his *Preface to his Reading*, believes this Office was first created in the time of *Edw. 3.* his reason is this, because *Britton* that wrote in *Edw.* the First time, in the beginning of his Book, taking upon him to name all the Courts of Justice, maketh no mention of this Court, or Magistrate; and *Richard* the Second, in the Tenth Year of his Reign, limited his Jurisdiction to the power he had in his Grand-father *Edw. 3.* his Days; but contrary to this, it appears by some ancient Records, that not only in the Days of *Edward* the first, but also of King *John*, all Causes of Merchants and Mariners, and things happening within the main Sea, were ever tried before the Lord Admiral. To this purpose, he hath his Court call'd *The Admiralty*: He hath Cognisance of the Death or Mayhem of a man committed in any great Ship riding in great Rivers, beneath the Bridges of the same next the Sea; also to arrest Ships in great Streams, for the Voyages of the King and Realm, and hath Jurisdiction in such Streams during the said Voyages. And Mr. *Pryn* in his *Animadversions* on *Co. Inst. 4. pa. 75.* says, he had Jurisdiction, both within and without the Kings Dominions, and might judge them in a summary way, according to the Laws of *Oleron*, and other Sea-Laws.

Admission, Is when the Patron presents to a Church, being void, and the Bishop upon examination, admits the Clerk able, by saying *Admitto Te habilem*, *Co. on Lit. fol. 344. a.*

Admittendo clerico, Is a Writ granted to him that hath recovered his right of Presentation against the Bishop in the *Common Bench*, the form of which you may have in *F. N. B. fol. 38. And Reg. Orig. fo. 33. a.*

Admittendo in Socium, Is a Writ for the Association of certain persons to Justices of Assize before appointed, *Reg. Orig. fol. 206. a.*

+ **Annihilated**, 28. H. 8. cap. 7. From the *Lat. Nihil*, or as it was written of old *Nichil*, signifies annulled, made void, or brought to nothing.

Ad quod Damnum, Is a writ that lies to

the Sheriff, to inquire what Damage it may be to others for the King to grant a *Fair* or *Market*; or other person to give any Lands holden in Fee-simple, in *Mortmain*, to any House of Religion, or other Body Politick; for in that case the Land is said to fall in *manum mortuam*, into a dead hand; that is, it is in such an estate and condition, that the chief Lords lose all hope of *Heriots*, *Service*, of Courts and *Escheats* upon any trayterous or felonious offence committed by the Tenant; for a Body-politick dyeth not, neither can perform personal Service, or commit Treason or Felony, as a single person may. And therefore it seems convenient, that before any such Grant be made, it be known what prejudice, it is like to work either to the Grantor, or others, *Fitz. Nat. Brev. fol. 221. Termes de ley 25. Vide Mortmain.*

Ad terminum qui praterit, Is a writ of Entry, that lies where a man having leased Lands or Tenements for term of life or years, and after the term expired, is held from them by the Tenant, or other stranger, that occupieth the same, and deforceth the Lessor. In such case this writ lyeth for the Lessor and his Heirs, *Fitz. Nat. Brev. fol. 201.*

Advent, Is a time comprising a Moneth, or thereabouts, and begins upon the Sunday, that falls either upon St. *Andrews*-day, being the 30th of November, or next after it, and continues till the Feast of the Nativity of our Lord, commonly called *Christmas*, though Sir *Edward Cook. 2. part, Inst. fol. 265.* mistakes, in saying it ends eight days after the *Epiphany*; herein our Ancestors reposed much Reverence and Devotion, in regard of the near approach of that Solemn Feast; inasmuch that it is said, *Inter Plac. de temp. Regis Joh. Ebor. 126.* that *In adventu Domini nulla assisa debet capi*; all Contentions in Law were then remitted. Whereupon there was a Statute made *Anno 3 E. 1.* being *Westm. 1. cap. 48.* that notwithstanding the said usual Solemnity, it might be lawful (in respect of Justice and Charity, which ought at all times to be regarded) to take Assises of *Novel Disseisin*, *Mortdancer*, and *Darrein-presentment* in the time of *Advent*, *Septuagesima* and *Lent*. This is also one of the times from the beginning whereof to the end of the Octaves of the *Epiphany*, the Solemnizing of Marriage was forbidden, by reason of certain Spiritual Joy that the Church ought to conceive in the remembrance of her Spouse, *Christ Jesus*, and was not without special licence to be entertained; according to the old Verse;

*Conjugium Adventus prohibet, Hilariq; relaxat,
Septuagena vetat, sed Paschæ octava reducit,
Rogatio vetitat, concedit Trina Potestas.*

Vide Rogation-week and Septuagesima. This Solemn Feast had its name of *Advent*, because it did so immediately precede the appearing of our Lord, and therefore was *preparatio Sanctæ in Adventum Domini.*

Adultery, (*Anno 1 H. 7. cap. 4.* and in divers other both places and Authors termed *Advowtry*), in Latine *Adulterium* (as it were *Ad alterius thorum ascendere*), is properly the Sin of Incontinence between two married persons; yet if

but one be married, it is Adultery, which is severely punished by the Laws of God, and the antient Laws of the Land. King *Edmund* a Saxon *Legisuar cap. 4. Adulterium officii jussit instar Homicidii.* *Canutus* the Dane, *Hominem adulterum in exilium relegari jussit, faminam nasum & aures præcidi, Leg. par. 2. cap. 6.* and afterwards, *cap. 50. Qui uxoratus facies Adulterium, habeat Rex vel Dominus superiorem, Episcopus inferiorem. Leg. Hen. 1. cap. 12.* See a notable Case concerning Adultery in *Co. 2. Inst.* concerning *Margaret*, the Wife of *John de Camoh*, who with her Husbands consent lived in Adultery with Sir *William Panell*, yet lost her Dower. See *Dower. Rex. Sc. Præcipimus tibi quod diligenter inquiri facias per legales homines de Visn. Candeur Si Robertus Pincerna habens suspectum Will. Wake qui cum uxore sua adulterium committeret, prohibuit ei ingressum domus sue, & si idem Will. post prohibitionem illam, domus ipsius Roberti ingressus adulterium prædictum commisit, inde præfatus Robertus mentula eum privavit, & si inquisitio dederit, quod ita sit tunc eidem Roberto & suis qui cum eo erant ad hoc faciend. terr. & catalla sua occasione illa in manum nostram seista, in pace esse facias donec aliud inde tibi præcipimus, Sc. Claus. 14. Joh. m. 2.*

Ad ventrem inspiciendum, Is a writ mentioned in the Statute of *Essoines, 12 E. 2.* See more in the Title *Ventre inspiciendo.*

Advocatione decimarum, Is a Writ that lieth for the claim of the fourth part, or upward, of the Tythes that belong to any Church, *Reg. Orig. fol. 29. b.*

Advowtry. See *Adultery*.

Avow, Alias *Avow*, *advocare*, cometh of the French word *Advouer*, alias *avouer*, and signifieth as much as to justify or maintain an Act formerly done: For Example, One takes a Distresse for Rent, or other thing, and he that is distrained sueth a Replevin; now he that took the Distress, or to whose use the Distress was taken by another, justifying or maintaining the act, is said to *avow*, *Termes de Ley 73.* Hence comes *Advowant* and *Advowry*, *Old. Nat. Brev. fol. 43. Bracton.* uses the Latine word in the same signification (as *Advocatio Dissessina*) *lib. 4. cap. 26.* and *Cassanovus, de consuet. Burg. pa. 1210.* Uses *advocare* in the same signification. And *pag. 1213.* the Substantive *desavowementum*, for a disavowing, or refusal to *avow*. * This word *Advowee* or *Avowee* (in Latine *Advocatus*) is used for him that hath right to present to a Benefice, *25. E. 3. Stat. 5.* where we find also *Advowee paramount*, for the highest Patron, viz. the King: *Advocatus est ad quem pertinet jus Advocationis alicujus Ecclesie, ut ad Ecclesiam, nomine proprio, non alieno possit presentare, Fleta, lib. 5. cap. 14. Fitz. Nat. Brev. fol. 39.* useth in the same sense.

Advowee Paramount. By the Statute of *Provisors, 25. E. 3.* is taken for the King, the highest Patron.

Advowzen, Or *Advowson*; *Advocatio* signifieth in our Common-Law a right to present to a Benefice, and is as much as *jus Patronatus* in the *Canon-Law*; The reason why it is so termed, proceedeth from this, because they that originally obtained the right of presenting to any Church, were Maintainers of, or great Benefactors to that Church, either by building, or increasing it; and are therefore sometimes termed *Patroni*, sometimes

Advow-

Advocati and sometimes *Defensores* cap. 4. & 2. de jure Patronatus in decretal. And Advowson being an old bastard French word, is used for the right of presenting, as appeareth by the Statute of Westminster 2. cap. 5. Now Advowson is of two sorts; first Advowson in gross, that is, sole or principal, not belonging to any Mannor, as parcel of its right; and secondly, Advowson appendant, which depends upon a Mannor, as appurtenant to it, termed therefore by Kitchin an Incident, that it may be separated from the subject. Of this Mr. John Skene de verbo Sig. hath these words, *Dicitur Advocatio Ecclesia, vel quia Patronus alicujus Ecclesia ratione sui juris advocat se ad eandem Ecclesiam, & aserit se in eadem habere jus Patronatus, camque esse sui quasi clientis loco vel potius cum aliquo (nempe Patronus) advocat alium jure suo ad Ecclesiam vacantem eumque loco alterius (veluti defuncti) presentat & quasi exhibet.*

Almshouse, Pecunia Elemosynaria, scilicet, Denarii sancti Petri. Vide Almshouse.

Estate probanda, Is a Writ that the Kings Tenant holding in chief, by Chivalry, and being Ward, by reason of Nonage, obtaineth to the Escheator of the County where he was born, or where the land lyeth, to inquire whether he be of full age, to receive his Lands into his own hands, Reg. Orig. fol. 294, 295. F. N. B. fol. 253. & 257. he saith, that this Writ is sometime directed to the Sheriff, to impanel a Jury against a day certain, before Commissioners authorized under the Great Seal to deal in such a case.

Aerie, Or *Ayre* of Goshawks (*Aeria accipitrum*), Is the proper term for Hawkes, for that which of other Birds we call a Nest. Thus it is used, 9 H. 3. cap. 12. in the Charter of the Forest, and divers other places. It cometh from the French word (*Aire*) signifying as much as (*par*) in Latine, or (*a payre*) in English; and therefore when the Frenchman saith, *un bone de bone aire*, he means a man coming of a good Payre, that is, a good Father and Mother.

Aelmerp. Vide *Esnece*.

Affeerers, (*Affectores aliis Affidati*) May probably be derived from the French (*Affier*) that is, *affirmare*, *confirmare*; and signifieth in the Common-Law such as are appointed in Court-Leets, upon Oath, to set the Fines on such as have committed faults arbitrarily punishable, and have no express penalty appointed by the Statute. The form of their Oath, you may see in Kitchin, fol. 46. The reason of this denomination may seem to be, because they that be appointed to that Office, do affirm upon their Oaths, what penalty they think in conscience the Offender hath deserved: Another probable derivation may be from (*seve*), an old English word signifying a Companion, as (*Gesera*) doth among the Saxons, by Mr. Lambard's testimony (*verb. consubernalis*), in his explication of Saxon words, and so it may be gathered that Kitchin taketh, cap. Amercements, fol. 78. in these words, *Mes tiel amercement soit affire per pares*; where (*Pares*) is put for *Affeerers*, and the reason hereof may be, for that in this business they are made Companions, or Equals. We find this word used, 25 E. 3. Stat. 7. viz. The same Justices before their rising in every Sessions, shall cause to be affected the Amercements; and also to the same effect, 26 H. 6. cap. 6. And Kitchin

fol. 78. joyns these three words together, as Synonymas, viz. *Affidati*, *Amerciores*, *Affirors*, *Affidare* in the Canon-Law, is used for *Eidem dare*, ca. fina. de cognatio spiritus in Decretal. & ca. super eo de testibus. Bracton hath *Affidare mulierem*, to be betrothed to a Woman, lib. 2. cap. 12. But in the Customary of Normandie, cap. 20. this word (*Affurer*), the Latine Interpreter expresseth by (*Taxare*), that is, to set the value of a thing, and the same with *affirmare*, &c. which seems indeed the best Etymology. See Co. li. 8. fol. 40. b.

Affidatus, Signifies a Tenant by Fealty, witness this Charter, Ego Rogerus, &c. dedi, &c. Willelmo Wallensi pro suo servitio unam acram, &c. pro hac donatione & concessione devenit predictus Will. *Affidatus meus*, &c. *Affidati* non proprie Vassalli sunt, sed quasi-vassalli, qui in alicujus fidem & clientelam sunt recepti, &c. *Affidatio* accipitur pro mutua fidelitatis connexionem tam in sponsalium quam inter Dominum & Vassallum. Proles de affidata & non maritata, non est bares, M. S. penes Arth. Trevor. Ar.

Affirme, *Affirmare*, Signifies to ratify or confirm a former Law or Judgment: So is the Substantive (*affirmance*) used anno 8 H. 6. cap. 12. And so is the Verb it self by West, part 2. Symbole, in Fines, sect. 152. if the Judgment be affirmed, &c. and also by Crompton in his Jurisd. fol. 166. 19 H. 7. cap. 20.

Affiance, Is the plighting of Troth betwixt a Man and a Woman, upon agreement of Marriage to be had between them; the Latine word, (*affidare*) from whence this is derived, is as much as *fidem ad alium dare*, and this word *affiance* is used by Littleton, cap. Dower, sect. 39.

Affidavit, In Law signifies an Oath, as to make *Affidavit*, is to testify a thing upon Oath.

Afforest, Is to turn a piece of Ground into Forest, Charta de Foresta, cap. 1. & 30. anno 9 H. 3. what that is, see more at large in Forest.

Affray, Cometh of the French word (*Effray*) *terrere*, to affright, and therefore may be without word or blow given, and so is the word used in the Statute of Northampton, 2 E. 3. cap. 3. It is commonly taken for a Skirmish, or Fighting, between two or more; In our Books it is many times confounded with an *Assault*, as appears by Lambert, in his Eirenarcha, lib. 2. cap. 3. & lib. 1. cap. 17. yet as it is there said, they differ in this, that where an *Assault* is but a wrong to the Party, an *Affray* is a wrong to the Common-wealth, and therefore both inquirable and punishable in a Leet. It may be said likewise, that an *Assault* is but of one side, but an *Affray* is the fighting of many together; besides this signification already mentioned, it may be taken for a terror wrought in the Subject by an unlawful fight of Violence, &c. as if a man shew himself furnished with Armor or Weapons not usually worn, it may strike a fear into others unarmed, 2 E. 3. cap. 3. 4 H. 6. 10 & E. 4. 5.

Affri, Vel *Affra*, Bullocks or Beasts of the Plough, *Viccomes libere ei omnia catalla debitoris, exceptis bobus & Affris caruca*, West. 2. cap. 18. And in Northumberland to this day, they call a dull or slow Horse a false *Aver*, or *Afer*, Spelm. Whence also with probability enough, may be drawn the word *Heyser* for a young Cow.

Age, *Esas*, French *age*, and signifieth in the

the Language of the Vulgar a mans life, from his Birth to the day of his Death; but in the Common-Law it is particularly used for those special times, which enable men and women to do that, which before for want of age, and consequently of Judgment, they might not do: And these times in a man be two, at Fourteen years he is at the age of discretion, Twenty one years is his full age, *Littleton, lib. 2. cap. 4.* the Law takes notice of him at several other ages, as at twelve years, to take the Oath of Allegiance in a Leet; at fourteen to consent to Marriage, and in socage to choofe his Guardian, *Dyer, fol. 162.* at fifteen for the Lord to have aid *pur faire Fitz. Chivalier, F.N.B. in brevi de rationabili auxilio.* In a Woman they be Six, *Bro. Gard. 7.* First at seven years of age, her Father being the Lord, might heretofore distrain his Tenants for aid *pur file marier*, for at those years she may consent to Matrimony, *Brañ. lib. cap. 36. nu. 3.* Secondly, At nine years old she is Dowable, for then, or within hal a year after, she is able *Promereri dotem & virum sustinere*, *Fleta, lib. 5. cap. 22. Lit. lib. 1. cap. 5.* which *Brañ. loco citato* does notwithstanding limit to twelve years Thirdly, At twelve years she is able finally to ratifie and confirm her former consent given to Matrimony. Fourthly, At fourteen years she is enabled to receive her Lands into her own hands, and shall be out of Ward, if she be of that age at her Ancestors death. Fifthly, At sixteen years she shall be out of Ward, though at the death of her Ancestor, she was under fourteen; The reason is, because then she may take a Husband able to perform Knights-Service. Sixthly, At twenty one years she is able to Alienate her Lands and Tenements; besides, as to a man we may add, that at fifteen years he shall be sworn to keep the King's Peace, *Anno 34 E. 1. Stat. 3.* The age of twenty one did heretofore compel a Man to be a Knight that had twenty pound Lands *per annum* in Fee, and that by 1 E. 2. Stat. 1. which is since repealed by 17 Car. 1. cap. 20. That age also enables him to contract and deal by himself in the management of his Estate, which until that time he cannot do with security of those that deal with him. The age of twelve binds to appearance before the Sheriffs and Coroner for enquiry after Robberies. *Anno 32 H. 3. cap. 24.* The age of fourteen years enables to enter an Order of Religion, without consent of Parents, *Anno 4 H. 4. cap. 17.* See *Co. on Lit. fol. 78. b.*

Age piter. (*Ætatem precari*, or *atatis precation*) Is a petition or motion made in Court by one in his minority (having an Action brought against him for Lands coming to him by descent) that the action may cease till he arrive to his full age, which the Court in most cases ought to yield unto: This is otherwise in the Civil-Law, which enforceth Children in their minority to answer by their Tutors or Curators; *W. de minor. 25. an.*

Agenbine. See *Hogenbine.*

Agent and Patient, Is, when a man is the doer of a thing, and the party to whom it is done, as where a Woman endows her self of the fairest possession of her Husband; Also if a man be indebted to another, and after makes the party to whom he is so indebted his Executor, and dies, the Executor may retain so much of the Deceased's

Goods in his hands as his own Debt amounts to, and by this retainer he is the Agent and Patient, that is, the party to whom the Debt is due, and the party that pays the same. *Sed quare de hoc, or that it is resolved, Co. lib. 8. fol. 138.* In *Bonham's Case*, that a Man shall not be judge in his own cause, *Quia iniquum est aliquem sui rei esse judicem.*

Agist, From the French (*Gist*) a Bed or resting place, or (*giser*) jacer, or gister, *stabulari*, a word proper to a Deer, *cum sub mensam Mayum & locu abditu in quibus delinuit emigrans in loco delecto stabulari incipit: unde commoda & propinqua sit pabulatio, Budau in Posterior. lib. Philologia.* It signifieth in our Common-Law to take in and feed the Cattel of Strangers in the Kings Forest, and to gather the Money due for the same to the Kings use, *Charta de Foresta, an. 9 H. 3. cap. 9.* The Officers that do this, are called *Agistors*, in English Guest-takers, *Crompt. jur. fol. 146.* These are made by the Kings Letters Patents under the Great Seal of England, of whom the King hath four in every Forest, where he taketh any Pawnage; *Manwood's Forest Laws, cap. 11. fol. 80.* In what their Office consists; see the same *Manwood, part 1. p. 336.* Their Function is termed *Agistment*, as *Agistment upon the Sea-banks, Anno 6 H. 6. cap. 5.* This word *Agist* is also used for the taking in of other Mens Cattel into any Ground at a certain rate *per week.* See 4 *part, Inst. fol. 293.*

Agreement, (*Agreementum*, which is according to *Plowden, aggregatio mentium*) Is a joyning or putting together of two or more minds in any thing done, or to be done, and this is threefold: 1. An agreement executed already at the beginning, and of that mention is made, 25 E. 3. cap. 3. of Clothes, which saith, *That the Goods bought by Foresters, being thereof attainted, shall be forfeit to the King, if the Buyer have made Gree with the Seller:* Where the word (*Gree*) which otherwise is called Agreement executed, that is, payment for the things, or satisfaction. 2. An agreement after an act done by another, and is executed also; this is where one does an Act, and another agrees to it afterwards. 3. An agreement executory, or to be done *in futuro*, for which see 26 H. 8. cap. 3. And this may be divided into two parts, one which is certain at the beginning, the other when the certainty doth not appear at first, and the Parties agree that the thing shall be performed, or paid, upon the certainty known.

* **Agraria Lex,** Was a Law made by the Romans for the distribution of Lands among the common people.

Ayde, Auxilium, Is all one in signification with the French (*Aide*) and differs only in pronunciation; But in our Law it is applied to divers significations, as sometimes it signifies a Subsidy, as 14 E. 3. Stat. 2. cap. 1. sometimes a Prestation due from Tenants to their Lords, as towards the relief due to the Lord Paramount, *Glanville, lib. 9. cap. 8.* This the King, or other Lord, might of old lay on their Tenants for knighting his eldest Son at the age of fifteen years, or marrying his Daughter at seven, *Reg. Orig. fol. 87. a.* and that at what rate themselves listed; But the Statute of *Westm. 1. anno 3 E. 1.* ordained a restraint

straint for so unlimited a demand; And 25 E. 3. Stat. 5. cap. 11. provides, That the rate set down by the former Statute should hold in the King as well as other Lord; of which, mention is made 27 H. 8. cap. 10. This Imposition seems to have descended to us from *Normandy*, (or rather from a more ancient Original, *The Feudal Law*) for in the *Grand Custumary*, cap. 35. you have a *Tractate*, intituled, *Des aydes Chevelz i. auxiliiis capitalibus*, whereof the first is, *a fayne l'unc fize de son Seigneur Chevalier*, to make his eldest Son Knight; The second *pur cine file marier*; to marry the eldest Daughter, both these, and all charges incident thereunto, are taken away and discharged by the Stat. 12 Car. 2. cap. 24. This word is also particularly used in matter of Pleading, for a Petition made in Court for the calling in of help from another that hath an interest in the cause in question, and is likely both to give strength to the Party that prayeth in ayd of him, and also to avoid a prejudice growing toward his own right, except it be prevented; as when Tenant for term of life, by *curtesy*, Tenant in tail after possibility of issue extinct, for term of years, at will, by *Elegit*, or by Statute Merchant, being impleaded touching his Estate, may *petere auxilium*, that is, pray in ayde of him in the Reversion, that is, desire the Court that he may be called in by Writ, to alledge what he thinketh good for the maintenance both of his Right, and his Own; *Termes de la Ley*: But this course hath been much disused: *Fitzherbert* mentions both *Prier in Ayde*, and *Prier Ayde de Patron*, &c. *auxilium petere a Patrono*, Nat. Brev. fol. 50. d. And the New Book of Entries, verbo *Ayde de parsoner*, fol. 411. col. 4. This word is also found in 13 R. 2. cap. 17. This *Ayde prior* is sometimes also used in the King's behoof, that there may be no proceeding against him, until the Kings Council be called and heard, to say what they think fit for avoiding the Kings prejudice or loss; as if the King's Tenant holding in chief, be demanded a Rent of a common person, he may pray in Ayde of the King; Also a City or Burrough that hath a Fee-Farm of the King, any thing being demanded against them which belongeth thereunto, may pray in Ayde of the King, &c. *Termes de Ley*, 35, 36. Of this you may read the Statute *De Bigamia*, Anno 4 E. 1. cap. 1. 2, 3. & an. 14 E. 3. Stat. 1. cap. 14. The Civil-Law in Suits begun between two, allow a third to come in (*prointeresse*) and he that cometh in for his Interest, cometh either *assistendo* or *opponendo*, &c. See 19 Car. 2. cap. 8. Vide *Recess*.

Ayel, (*Avu*) Cometh of the French word (*Aicul*) and signifies a Writ, which lieth where the Grand-Father and great Grand-Father, (called by our common Lawyers (*Besayel*) but in true French (*Besayent*) was seised in his Demesne, as of Fee of any Lands and Tenements in Fee-simple the day that he died, and a stranger abareth or entereth the same day, and dispossesseth the Heir, F.N. B. fol. 222. *Flou. Com.* fol. 449. b.

Airy of Hawkes. See *Aery*.

Alba firma. *Census annualis qui Centenario five Domino Hundredi penditur. Ideo Alba dicta quod non ex more prisca saculi in annonâ qua tunc Black mail nuncupata fuit (hoc est census vel firma nigra, sed argento, quasi censu albo reddebatur. Spelman. Duplex est tenura in Com. Westmerland, scil. una per*

Albam firmam, & alia per Cornagium, &c. 2 Part Inst. fol. 10.

Alderman, Sax. *Ealdorman*, Lat. *Aldermannus* signifies as much as Senator or Senior, and was among the Saxons as Earl among the Danes, *Camb. Brit. fol. 107. Lamb.* in his explication of Saxon words, verbo *Senator. Rog. Hoveden. part. posterior suor. annal. fol. 346. b.* At this day we call them Aldermen, who are Associates to the chief Civil Magistrate of a Town-Corporate or City, 24 H. 8. cap. 13. See *Spelman's Glossary* at large on this word, where you shall find that here we had anciently a Title of *Aldermannus totius Anglia*, witness this Inscription upon a Tomb in Ramsey-Abby, *Hic requiescit D. Alwinus incliti Regis Eadgari cognatus, totius Anglia Aldermannus, & bujus sacri Canobii miraculosus Fundator.*

Alepiman, (*Alepipannus*) *Omnis Alepiman de tota Soca de Hecham debet singulis annis unum denarium de Chevagio; & operabitur per tres Dies in autumpno, exceptis illis qui ab hac servitute li liberi sunt. Conventudinar. de Hecham Prior Lew. M. S. pag. 21. Videtur Alepipannos istos mancipia fuisse; Chevagii enim solutio servitutis judicium est. Spelman.*

Aler sans jour, Is French, and signifies properly in English to go without day; the meaning whereof is to be finally dismissed the Court, because there is no further day assigned for appearance, *Kitchin, fol. 146.*

Ale-silver, A Rent or Tribute yearly paid to the Lord Mayor of London, by those that sell Ale within the City, *Antiq. Purveyance, fol. 183.*

Ale-taster, Is an Officer appointed in every Court-Leet, and sworn to look to the Affize of Bread and Ale, or Beer, within the Precincts of that Lordship, *Kitchin, fol. 46.* where you may see the form of his Oath.

Alias. Vide *Capitulum alias*.

Alien, (*Alienare*) Cometh of the French word (*alienar*) and significeth as much as to transfer the property of any thing to another. To *Aliene in mortmain*, is to make over Lands or Tenements to a Religious House, or other Body Politick, *Stamf. Præ. Reg. fol. 48.* See *Mortmain*. To *aliene in Fee*, is to sell the Fee-simple of any Land or Tenement, or of any Incorporeal right, *Westm. 2. cap. 25. an. 13 E. 1.*

Alien, *Alium*, *Alienus*, *Alienigena*, signifies one born in a strange Country: It is usually taken for the contrary to a *Denizen*, or natural Subject, that is, one born in a strange Country, and never here enfranchised, *Bræ. Denizen 4.* Yet a man born out of the Land, so it be within the Limits of the King's Obedience, beyond the Seas, or of English Parents out of the King's Obedience; so the Parents at the time of the Birth be of such obedience, is no *Alien* in account, but a Subject, Stat. 2. 25 E. 3. commonly called the Statute *De natis ultra mare*. Also, if one born out of the King's allegiance, come and dwell in England, his Children begotten here, are not *Aliens*, but *Denizens*, Co. Rep. lib. 7. *Calvin's Case*. See *Denizen*.

Alienation, Is to make a thing another mans, or to alter and put the Possession of Lands or Tenements, or other things, from one man to another. And in some cases a man hath power so

to do without the assent or licence of another, and in some not; as if Tenant in *Capite* alien his Estate without the King's licence, then by the Stat. of 1 E. 3. cap. 12. a reasonable Fine shall be taken, whereas at the Common-Law, before that Statute, they were held forfeit, Sec. Co. lib. 6. fol. 28. But if a man will alien Lands in Fee-simple to a Religious House, or Body-Corporate, it behoves him to have the King's licence to make this *Alienation*; otherwise the Lands shall be forfeit, by the Statute of 15 R. 2. cap. 5.

Alimony, Alimonia, Maintenance: But in a legal sense, signifies that allowance which a married Woman sues for, upon any occasional separation from her Husband; wherein she is not charged with *Elopement* or *Adultery*. This *Alimony* was heretofore called *rationabile estovarium*, as we may see by this Writ. Rex, &c. *Præcipimus tibi quod de Matrimonio Emma de Pinckney uxoris Laurentii Petri, qui excommunicatus est, eo quod prædictam Emmam affectione maritali non tractat, eidem Emma rationabile estovarium suum inveniat, donec idem Laurentius vis sua cum tantquam uxorem suam tractaverit, ne iteratus clamor ad nos inde perveniat, T. 29. Aug. Anno Regni nostri 7. Rot. Claus. 7. Hen. p. 1. m. 3.*

Allay, French, In Latine Alloya, Is used for the temper or mixture of other Metals with Silver and Gold, Anno 9 H. 5. Stat. 2. cap. 4. and Stat. 1. cap. 11. The reason of which *Allay* is, with a baser metal to augment the weight of the Silver or Gold, so much as may countervail the Prince's charge in Coyage, Anton. Faber. de *Nummulariorum debitorum solutionibus*, cap. 1.

Allocation; (Alocatio) Properly a placing or adding to; but in the sense of Law it is an allowance made upon an account in the Exchequer.

Allocacione facienda, Is a Writ directed to the Lord Treasurer and Barons of the Exchequer, upon complaint of some Accountant, commanding them to allow him such sums as he hath by virtue of his Office lawfully and reasonably expended, Regist. Orig. fol. 206. b.

Allodium, See Fea. Allodian Lands are free Lands, which pay no Fines or Services.

Alluminor, Is derived from the French word *Allumer, i. accendere*, and denotes one that by his Trade coloureth or painteth upon Paper or Parchment: And the reason is, because he gives light and ornament by his colours to the Letters, or other Figures coloured. The word is used Anno 1 R. 3. cap. 9. At this day we call such a one a *Linner*.

Almaine rivets, Is a light kind of *Armor* for a man, with Sleeves of Maille, or Plates of Iron, for the defence of his Arms; this may seem to have been the Pattern of the Rocket, not long since in use among us, having loose Sleeves, which the livery Cloakes of Noblemens Coachmen may also seem to imitate.

Almner or Almoner, (Elemosynarius) Is an Officer of a Kings or Princes House, whose Office is diligently to collect all Fragments of Victuals, and distribute them daily to the Poor; charitably to visit all Sick, Leprous, Prisoners, poor Widows, and other necessitous and vagrant

People, that have no constant abode: likewise to receive, and faithfully distribute all cast Horfes, Robes, Money, and other things given in Alms. He ought also by frequent Admonitions, to move the King to bestow his Alms, and especially upon *Saints*, or *Holy-days*, and to advise him not to give his rich Robes to Players, Sycophants, Flatterers, Whisperers, or Minstrels, but that he command them to be bestowed as an increase of his Alms, Fleta. lib. 2. cap. 22. He hath the forfeiture of all *Deadlands*, and the Goods of Felons *de se*, which he is to dispose in Alms to the Poor, *Termes de Ley*, 39.

Almoine. See *Aumone*, and *Frank Almogyn*.

Almestesh or Aelmeestesh, Saxon, that is, Alms-Money; it was taken for *Peter-pence*, anciently paid in England on the First of August, and first given by Ina King of the West-Saxons: It was called also *Romestesh*, *Romestcot*, and *Heorthpening*. Seldens Hist. Tybbs, pag. 217.

Almond, Amygdalum, Is well known to every mans sight, being the Kernel of a Nur, of whose nature and diversities, read *Gerardi Herball*, lib. 3. cap. 87. This is noted among Merchandise, that are to be garbled, Anno 1 Jac. cap. 19.

Alnage, French Aulnage; the measuring with an Ell, 17 E. 4. cap. 5. See *Alnager*.

Alnager, Alnager, Aulnager, Alneger. In Latine *Ulniger* or *Ulnator*; that is, a Measurer by the Ell; it may be derived from the French word *Aulne*, an Ell, and signifieth a publick sworn Officer of the Kings, who by himself, or his Deputy, looks to the *Affize* of Woollen Cloth made through the Land, and to the Seals for that purpose ordained, 25 E. 3. Stat. 4. cap. 1. and 3 R. 2. cap. 2. who is accountable to the King, for every Cloth so sealed in a Fee or Custom thereunto belonging, Anno 17 R. 2. cap. 2. Read of this more, 27 E. 3. 4. 1 H. 4. 13. 7 H. 4. 10. 11 H. 4. 6. 12 H. 4. 4. 11 H. 6. 9. 31 H. 6. 5. 4 E. 4. 1. 8 E. 4. 1. & 1 H. 3. 8. There are now three Officers belonging to the Regulation of Clothing, all which were anciently comprised in one Person. These bear the distinct Names of *Searcher*, *Measurer*, and *Alnager*; which last, though in a several Language, it be the same with *Measurer*; yet long Usage and Custom have brought them to distinct Offices, and that which was anciently called *Alnager*, is now become Collector of the Subsidy granted to the King, by the fore-mentioned Statutes, still holding the same Name, because the Collection of that Subsidy was by Edw. the Third committed to the *Alnager*, and he nevertheless not abridged of measuring, till by his own neglect separated: Inasmuch as there is now a peculiar *Measurer* to every particular Cloth made in England and Wales: And to prevent Abuses, an Office of *Searching* is established by an Act of Parliament, who ought by peculiar Seal to denote the Defects which each Cloth contains. All these were anciently under the Cognizance of the *Alnager*, as you may read at large in a Treatise, entitled, *The Golden Fleece*, See 4. Inst. fol. 31.

Alnetum est ubi alni arbores crescunt, A place where Alder-Trees grow, *Doomesday-Book*.

Allodium, Signifies a Mannor, and *Alfidarii*.

darii, or *Alodarii*, the Lords of the same Manor. The old Translation of the Saxon Laws useth this word for *Bockland*. And *Aluacii*, or rather, as I believe, *Alodacii*, for them that hold *Bockland* or *Charterlands*.

Altarage, *Altaragium*, This word includes not only the offerings made upon the Altar, but also all the profit that arises to the Priest by reason of the Altar, *Obventio Altarii*, as appears by an Order made in the Term of St. Michael 21, viz. in the Exchequer, between Turner Vicar of Westbaddon in Com. Northampton and Andrews, whereby is declared, that by *Altaragium* is meant Tithes of Wooll, Lamb, Colt, Calf, Pigs, Goslings, Chickens, Butter, Cheese, Hemp, Flax, Honey, Fruits, Herbs, and other such small Tithes, with offerings that shall be due in the Parish of Westbaddon. See the Order at large, *Inter ordines in custodia Rememorator. Reg. ibid.* And the like Case was for Norton in Northamptonshire, of a latter date, *Oblationes five nummorum five panum tali vel tali Altari, vel ex devotione vel ex consuetudine, aut à Parochianis, aut ab extraneis facta Altaragii nomine confabantur*, Gloss in Mat. Paris.

Alto & Basfo, or in *Alto & in Basfo*. By this is meant the absolute submission of all Differences, small and great, high and low, *Pateat Univerfis, Sc. quod W. T. de Y. & T. G. de A. posuerunt se in alto & basfo in arbitrio quatuor hominum, Sc. de quadam querela, Sc. Dat. apud A. die Mercurii prox. post Fest. concept. B. Mar. Virg. anno 2 H. 5.* And the like signification it hath in *Plac. coram Rege Hill. 18 E. 1. Ipse Prior venit & Bogo similiter & ponunt se in gratiam, misericordiam & voluntatem Regis de Alto & Basfo, ad quod mandantur Turri London, Sc.*

Amabylr. See *Chepage*.

Amvidexter, Properly denotes a man that can equally use both his Hands; But in a legal sense, it signifies, That Juror or Embracior that taketh Money on both Parties for the giving of his Verdict, for which he forfeits *Decies tantum*, ten times so much as he taketh, 38 E. 3. 12. *Crompt. Just. of Peace*, fol. 156. b.

Ame. Vide *Aume*.

Amenable, From the French word *Amener*, *Adducere*, to lead unto; or as some *Amaynable*, deducting it from (*Maine*) a hand; it signifies *Traſtable*, that may be lead or governed. It is applied in our Law Books to a Woman, that is governable by her Husband.

Amendment, *Emendatio*, Signifieth in our Common-Law, a correction of an Error committed in a Process, and espied before Judgment, *Termes de la Ley*, Bro. tit. *Amendment*, per tot. but if the fault be found after Judgment given, then the party that will redress it, is driven to his Writ of Error, Bro. tit. *Error*.

Amerciament, *Amerciamentum*, Signifieth the pecuniary punishment of an offender against the King, or other Lord in his Court, that is found to be in *miser cordia*, that is, to have offended, and to stand at the Mercy of the King or Lord. There seems to be a difference between *Amerciaments* and *Fines*, *Kitchin*, fol. 214. for *Fines*, as they are taken for punishments, be certain, and grow expressly from some Statute, but

Amerciaments are such as be arbitrarily imposed by *Affecrors*, which *Kitchin*, fol. 78. in some manner confirms in these words, *L'amer ciement est assise per pares.* Manwood in his *Forest Laws*, part 1. fol. 166. saith, An *Amerciament* is more easie, or more merciful penalty, and a *Fine* more sharp or grievous. His words are these, *If the Pledges for such a Trespass do appear by common Summons, but not the Defendant himself, then the Pledges shall be imprisoned for that default of the Defendant. But otherwise it is, if the Defendant himself do appear, and be ready in Court before the Lord Justice in Eyre, to receive his Judgment, and pay his Fine; But if such Pledges do make default, in that case the Pledges shall be Amerced, but not Fined.* The Author of the *New Terms of Law* saith, That *Amerciament* is properly a penalty assailed by the Peers or Equals of the Party amerced, for an Offence done; for the which he putteth himself upon the mercy of the Lord: Who also maketh mention of an *Amerciament Royal*, and defines it to be a pecuniary punishment laid upon a Sheriff, Coroner, or such like Officer of the King, by Justices for some Offence. *Katcliff* Baron of the Exchequer, 2 H. 7. fol. 7. See *Miser cordia*.

Amortization, *Amortizatio*, French *Amortissement*, est *prædiorum translatio in manum mortuam quod tamen sine venia Principis non fiat. Jus amortizationis est privilegium seu licentia capiendi in manum mortuam.* In the Statute *De libertatibus perquirendis*, 27 E. 1. This word *Amortissement* is used. See *Mortmaine*.

Amortise, (From the French word *amortir*) Is to aliene Lands or Tenements to any Corporation, Guild or Fraternity, and their Successors, which cannot be done without licence of the King and the Lord or the Mannor, 15 R. 2. cap. 5. See *Mortmain*, and the Statute for *Amortizing Lands* made tempore, Ed. 1.

Amoveas manum. See *Ouster le mayn*.

Amp, *Amicus*, As in Law *Prochein amie* is the next to be intrusted for an Orphant, or Infant.

Ampliation, *Ampliatio*, properly an enlargement, but in sense of Law, denotes a deferring of Judgment, till the Cause be further examined.

Amnesia, *Oblivio*, as an *Amnesia*, or Act of Oblivion, such as was granted by his most Gracious Majesty at his Restoration.

An, jour & Waste, (*Annus, dies & Vastum*) Look Year, Day, and Waste.

Ancealing of Tile, 17 E. 4. cap. 4.

Anchorage, (*Ancoragium*) A duty taken of Ships for the *Pool of the Haven*, where they cast Anchor, M. S. *Arth. Trezor. Ar.* For no man can let any Anchor fall on the Kings Ground in any Port, without paying for it to the Kings Officers appointed by Patent.

Ancestor, *Antecessor*, The signification is well known; and the Law makes this difference between that and *Predecessor*, that *Ancestor* is applied to a natural person, as J. S. and his Ancestors; the other to a Body-Politick or Corporate, as a Bishop and his Predecessors, Co. on *Lit. lib. 2. cap. 4. sect. 103.*

Ancestrel, As *Homage Ancestrel*, that is, *Homage* that hath been done or performed by ones *Ancestors*. See *Homage*.

Ancient, In the *Middle-Temple*, such as are past their Reading, and never Read, are *Ancients*. In *Gray's Inn* the Society consists of *Benchers*, *Ancients*, *Barriers*, and *Students* under the Bar, and here the *Ancients* are of the more *Ancient Barristers*. The *Inns of Chancery* consist of *Ancients* and *Students*, or *Clerks*, and among the *Ancients*, one is yearly the *Principal*, or *Treasurer*.

Ancient demesne or *demayn*, (*Vetus Patri-monium Domini*) Is a certain *Tenure*, whereby all the Mannors belonging to the Crown in the days of *Saint Edward*, or *William the Conqueror*, were held. The numbers and names of which Mannors, as of all others belonging to common persons, after a *Survey* made of them, he caused to be written in a Book, now remaining in the *Exchequer*, and called *Doomsday*. And those, which by that Book appear, to have at that time belonged to the Crown, and are contained under the Title, *Terra Regia*, are called *Ancient Demesne*, *Kitchin*, fol. 98. Of these Tenants were two sorts; one that held their Land frankly by Charter, the other by Copy of Court-Roll, or by the Verge at the Will of the Lord, according to the Custom of the Mannor, *Briston*, cap. 66. num. 8. The benefit of this *Tenure* consists in these Points. 1. The Tenants holding by Charter, cannot be impleaded out of their Mannor, or, if they be, they may abate the Writ, by pleading their *Tenure*. 2. They are free of Toll for all things concerning their Livelihood and Husbandry. 3. They may not be empennelled upon any *Enquest*, *F. N. B. fol. 14. d. & fo. 228, &c.* By whom it appears, these Tenants held originally by ploughing the King's Lands, plashing his Hedges, or such like, towards the maintenance of his Household; for which cause they had such Liberties granted. No Lands ought to be esteemed *Ancient Demesne*, but such as are held in *Socage*. See *Monstraverunt* and *Demayn*.

Anciently, (*French Anciennete*, that is, *Antiquitas*) It is used in *statuto Hibernia*, 14 H. 3. for Seniority. As, *The eldest Sister can demand no more than her other Sisters, by reason of her Anciency*.

Andena, A swath in Mowing. See *Dole*.

Annates, *Annates*, Are all one with *First-Fruits*, *Annus* 25 H. 8. cap. 20. See *First-Fruits*. The reason of the name is, because the rate of *First-Fruits* paid of Spiritual Livings, is after the value of one years profit. *Annates more suo appellantur primos fructus unius anni sacerdotii vacantis aut dimidiam eorum partem*, *Pol. Virgil. de Invent. rer. lib. 8. cap. 2.* Here observe, That *First-Fruits*, *Primitiæ* & *Annates*, are all one, *Co. 12. Rep. fol. 45.*

Anniented, Cometh of the French word *Anneantir*, that is, *Abjicere*; it signifieth in Law as much as frustrated, or brought to nought, *Lit. lib. 3. cap. Warranty*, and *scilicet* 741.

Anniversary days, (*Dies Anniversarii*) Were in former times, solemn Days appointed in Commemoration of the Deaths or Martyrdoms of Saints, and once every year celebrated: Also Days whereon, at the return of every year, Men were wont to pray for the Souls of their deceased Friends, mentioned in the Statute, 1 Ed. 6. cap. 14. and 12 Car. 2. cap. 13. This was in use

among our Ancestors the Saxons, as may be seen, *Lib. Rames, scilicet* 134.

Annua Pensione, Is a Writ whereby the King having due unto him an Annual Pension from an Abbot or Prior, for any of his Chaplains (whom he should think fit to nominate, being as yet unprovided of sufficient Living) doth demand the same of the said Abbot or Prior; and also willeth him for his Chaplains better assurance, to give him his Letters Patent for the same, *Reg. Orig. fol. 165. & 307. & F. N. B. fol. 231.* Where you may see the Names of all the Abbies and Priories bound to this, in respect of their Foundation or Creation; as also the form of the Letters Patent usually granted upon this Writ.

Anno Domini, Is that reckoning of Time from the Birth of our Saviour, which is generally used in all publick Writings, with an Addition of the year of the King's Reign. The Romans began their *Ara* from the building of their City; The Greeks reckon'd by *Olympiads*: And the Christians from the Birth of *Jesús Christ*. The day of the Month, Year of our Lord, and year of the Kings Reign, are the usual dates of Deeds, *Co. 2. Inst. fol. 675.*

Annuity, *Annuus redditus*, Signifies a yearly Rent to be paid for term of Life, or Years, or in Fee; and is also used for the Writ that lieth against a man for the recovery of such a Rent, if it be not satisfied every year according to the Grant, *Reg. Orig. fol. 158. F. N. B. fol. 152.* The Author of the *New Terms of Law* defineth *Annuity* to be a certain sum of Money granted to another in Fee-simple, Fee-tail, for term of Life or Years, to receive of the Grantor or his Heirs, so that no Free-hold be charged therewith, whereof a man shall never have Assize, or other Action, but a Writ of *Annuity*. *Saint Germain* in his Book stiled *Doctor and Student*, *Dial. 1. cap. 3.* Sheweth divers differences between a Rent and an *Annuity*, viz. That every Rent, be it Rent-Charge, Rent-Service, or Rent-Seck, is going out of Lands; but an *Annuity* goeth not out of any Land, but chargeth only the person; that is to say, the Grantor, or his Heirs, that have *Assets by descent*; Or the House, if it be granted by a House of Religion, *Lit. scilicet* 220. 2. A second difference is, That for the recovery of an *Annuity*, no Action lieth, but only a Writ of *Annuity* against the Grantor, his Heirs or Successors, *Fitz. Nat. Brev. 152.* But of a Rent, the same Actions lye as do of Land, as the Case requireth. 3. The third Difference is, That an *Annuity* is never taken for *Assets*, because it is no Free-hold in Law, neither shall be put in execution upon a *Statute-Merchant*, *Staple*, or *Elegit*, as a Rent may, *Doff. & Stu. cap. 30.* See also, *Dyer, fol. 345. pl. 2.* Also an *Annuity* cannot be severed, *Co. lib. 8. fol. 52. b.* See more *Leighs Comment. verbo Annuity*.

Annis-leed, *Semen Anisi*, a Medicinal Seed not unknown, *Gerard's Herbal. lib. 2. cap. 397.* It is noted among the Garbleable Drugs and Spices, 1 *Jac. cap. 19.*

Anoyfance, Alias *Noyfance*, alias *Nufance*, in Latine *Nocumentum*, in French *Nuisance*, hath a double signification, being used as well for any hurt done to a publick place, as a Highway, Bridge, or common River; or to a private, by

by laying any thing that may breed Infection, by incroaching, or otherwise; As also, for the Writ that is brought upon such transgression; whereof see more in *Nusance*: This word *Anoyssance*, you may find, *Anno* 22 H. 8. cap. 5.

Anfel weight. See *Aunfel*.

Appostata capiendo, Is a Writ that lieth against one, that having entred and professed some Order of Religion, breaks out again, and wanders up and down the Country, contrary to the Rules of his Order; for the Abbot or Prior of the House, certifying this into the Chancery, under their Common Seal, and praying this Writ directed to the Sheriff, for the Apprehension of such Offender, and delivery of him again to his Abbot or Prior, or their lawful Attorney, were wont to obtain the same. The form whereof, with other circumstances, you may find, *Reg. Orig.* fol. 71. & 267. and *Fitz. Nat. Brev.* fol. 233. C. This is now out of use.

Apparitor, 21 H. 8. cap. 5. Signifies a Messenger that cites Offenders to appear in the Spiritual Court, and serves the Process thereof.

Apparlement, Cometh of the French *Parailment*, that is, *Similiter*, *Perinde*, *Ibidem*, in English, *likewise*; it signifies a resemblance or likelihood, as *Apparlement of War*, 2 R. 2. Stat. 1. cap. 6.

Appeal, *Appellum*, Cometh of the French word *Appeller*, that is, *Accire*: It signifies in our Common-Law as much as *Accusatio* with the Civilians; for as in the Civil-Law, Cognisance of Criminal Causes is taken either upon *Inquisition*, *Denunciation* or *Accusatio*; so in Ours, upon *Indictment* or *Appeal*; *Indictment* comprehending both *Inquisition* and *Denunciation*: And *Accusatio* or *Appeal*, is a lawful Declaration of another mans Crime (which by *Brañon* must be Felony at the least) before a Competent Judge, by one that setteth his Name to the Declaration, and undertaketh to prove it upon the penalty that may ensue of the contrary. To declare the whole course of an *Appeal*, is not proper for this place, I refer you to *Brañon*, lib. 3. trañ. 2. cap. 18. cum sequent. *Britton*, cap. 22, 23, 24, 25. *Smith*, lib. 3. de repub. Ang. ca. 3. And *Stamf. pl. Cor.* lib. 2. ca. 6, 7, & c. usque 17. An *Appeal* is commenced two ways, either by *Writ*, or by *Bill*, *Stamf. ubi supra*, and it may be gather'd by him, fol. 148. that an *Appeal by Writ* is, when a *Writ* is purchased out of the Chancery by one to another, to this end, that he *Appeal* a third of some Felony committed by him, finding Pledges that he shall do it, and deliver the *Writ* to the Sheriff to be recorded. *Appeal by Bill* is, when a man of himself giveth up his Accusation in Writing to the Sheriff or Coroner, offering to undergo the burthen of Appealing another therein named. This point of our Law, among others, is taken from the *Normans*, as appears plainly by the *Grand Custumary*, c. 68. where there is a solemn Discourse both of the effects of this *Appeal*, viz. The Order of *Combat*, and of the Tryal by *Inquest*; of either of which it is in the Defendant's power to make choice. See *New Book of Entries*, verbo *Appell*, Lib. Ass. fol. 78. and 3. part. Inf. fol. 131.

Appeal of Mayhem, *Appellum Mahemii*,

Is an accusing of one that hath maimed another. But that being no Felony, the *Appeal* is but a kind of Action of *Trespass*, because there is nothing recover'd but Damages. *Brañon* calls this *Appellum de plagis & Mahemio*, and writes a whole Chapter about it, lib. 3. trañ. 2. ca. 24. See *Coke*, vol. 4. fol. 43. a. In King *John's* Time, there is an *Appeal* recorded against a Jew, *Qui fecit ementulari quendam nepotem suum*.

Appeal of wrong Imprisonment, (*Appellum de pace & imprisonment*) Is used by *Brañon* for an Action of *Wrong Imprisonment*, whereof he writeth, lib. 3. trañ. 2. ca. 25.

Appeal, (*Appellatio*) Many times used in the Common, as it is in the Civil-Law, which is the removing a Cause from an Inferior Judge to a Superior, as *Appeal to Rome*, 24 H. 8. ca. 12. and 1 Eliz. ca. 1. So Saint *Paul* Appealed from *Festus* to *Cesar*. But more commonly for a private Accusation of a Murderer, by a person who had interest in the party murdered, or of any Felon, by one of his Complices with him. And those that are so appealed, are call'd *Appelles*, 28 E. 1. See *Approver*.

Appendant, *Appendens*, Is a thing belonging to another that is more worthy, as *Accessorium Principali* with the Civilians, or *Adjunctum Subjecto* with the Logicians. An Hospital may be *Appendant* to a Mannor, *Fitzb. Nat. Brev.* fol. 142. Common of Fishing *appendant* to a Free-hold, *Westm.* 2. ca. 25. 13 Ed. 1. *Appendants* are ever by Prescription. See *Co. on Lit.* fo. 121. b.

Apperunage or *Apenage*, French, *A Childs part*, properly the Portion of the Kings younger Children in France, where they have a Law which they call, *The Law of Apenages*, whereby the Kings younger Sons have Dutchie, Counties, or Baronies granted to them, and their Heirs, or Heirs-males of their Bodie; the Reversion reserved to the Crown, and all Matters of Regality; as Coyuage, Levying Taxes, and the like: It is derived ab *appendendo*, or from the German word *Avanage*, which signifies a Portion. See *Gerard de Heylan & Spelman's Glossary*, in verbo *Appennarium*.

Appertinances, (*Pertinentia*) Is derived of the French word *Appertiner*, i. *Pertinere*, to belong to. It signifies in the Common-Law things both Corporeal, belonging to another thing, as the more Principal; as Hamlets to a chief Mannor, Common of Pasture, Turbary, Piscary, and such like; and incorporeal, as Liberties and Services of Tenants, *Brit. ca.* 39. Where we may observe, That he accounts Common of Pasture, Turbary and Piscary, to be things corporeal. *Vide Corporal*.

Apportionment, *Apportionamentum*, Is a dividing of a Rent into parts, according as the Land, whence the whole Rent issueth, is divided among two, or more. As if a man have a Rent-service issuing out of Land, and he purchases parcel of the Land, the Rent shall be apportioned according to the value of the Land. So if a man hold his Land of another by Homage, Fealty, Escuage and Rent, if the Lord of whom the Land is holden, purchase parcel of the Land, the Rent shall be apportioned. And if a man let Lands for years, reserving Rent, and after a Stranger recovers part of the Land, then the Rent shall be

be *apportioned*, and the Lessee shall pay, having respect to that which is recovered, and to that which remains in his Hands according to the value. But a Rent-charge cannot be *apportioned*, nor things that are entire: As if one hold Land by Service, to pay his Lord yearly at such a Feast, a Horse, a Hawk, a Rose, or a Cherry, or the like; then, if the Lord purchase part of the Land, this Service is gone, because a Horse, a Hawk, a Rose, a Cherry, &c. cannot be divided or *apportioned*, without damage to the entirety. In some Cases Rent-charge shall be *apportioned*, as if a man hath a Rent-charge issuing out of Land, and his Father purchases parcel of the Lands charged in Fee, and dies, and this parcel descends to his Son, who hath the Rent-charge; there this Charge shall be *apportioned*, according to the value of the Land; because such portion of the Land purchased by the Father, comes not to the Son by his own act, but by descent, and course of Law. Common Appendant is of common right, and severable; and though the Commoner purchase parcel of the Land, whereto the Common is appendant, yet the Common shall be *apportioned*. But in this case, Common Appurtenant, and not Appendant by such Purchase is extinct, *Co. lib. 8. fol. 79. Termes de Ley 48, 49.*

Apposer. See *Forreign Apposer.*

Apprendre, (French) As a Fee or Profit *Apprendre*, 2 & 3 E. 6. cap. 8. A Fee or Profit to be taken or received.

Apprentice, *Apprenticius*, (French *Apprenti*, and that from *Apprendre* to learn, whence their *apprentisage*, and our *apprentiship*) significeth with us one that is bound in Word, or Writing, to serve another man of Trade for certain years, upon condition, That the Artificer, or Master, shall in that mean time endeavour to instruct him in his Art or Mystery, *Smith, de Rep. Angl. lib. 3. cap. 8.* faith, They are a kind of Bondmen, differing only, that they be Servants by Covenant, and for a time. Barristers at Law were heretofore called *Apprentices of the Law*; So faith Mr. *Selden* in his Notes upon *Fortescue*, p. 3. And so the Learned Mr. *Flowden* filed himself. Sir *Henry Finch* in his *Nomotechnia*, gives himself the same Title. And Sir *Edward Coke*, 2. Part, *Inst. fol. 564.* holds, That *Apprenticii Legii* are called *Homines consiliarii* & in *Legis Periti*. And in another place --- *Apprentices*, and other Counsellors of Law.

Appropriation, *Appropriatio*; Proceedeth from the French *Approprier*, *id est*, *Aptare*, *accommodare*, and properly significeth in the Law of England, a severing of a Benefice Ecclesiastical, which originally, and in nature is, *Juris divini* & in *Patrimonio nullius*, to the proper and perpetual use of some Religious House, or Dean, &c. and Chapter, Bishoprick or Colledge: And the reason of the Name may be this, because, that whereas Parsons ordinarily be not accounted *Domini*, but *Usu-fruarius*, having no right of Fee-simple, *Lat. tit. Discontinuance*. These, by reason of their perpetuity, are accounted Owners of the Fee-simple, and therefore are called *Proprietarii*. And before the time of *Richard the Second*, it was lawful (as it seems) to appropriate the whole Fruits of a Benefice to an Abby or Priory, they finding one to serve the Cure. But that King redressed

that Evil by a good Law, whereby he Ordained, That in every Licence of *Appropriation* made in Chancery, it should be exprelly contained, That the Diocesan of the place should provide a convenient sum of Money yearly to be paid out of the Fruits, towards the sustenance of the Poor of that Parish, and that the Vicar should be well and sufficiently endowed, 15 R. 2. ca. 6. Touching the first Institution, and other things worth the learning about *Appropriations*, Read *Plowd* in *Grendon's Case*, fol. 496. b. & seq. As also, *Termes de Ley verbo Appropriation*. To an *Appropriation*, after the Licence obtained of the King in Chancery, the consent of the Diocesan, and the Patron and Incumbent are necessary, it the Church be tull; but if it be void, the Diocesan, and Patron may conclude it, *Plowd. ubi supra*. To dissolve an *Appropriation*, it is enough to present a Clerk to the Bishop, and he to institute and induct him; For that once done, the Benefice returns to the former nature, *Fitz. Nat. Brev. fol. 35. and Co. lib. 7. fol. 13.*

Approbement, Mentioned 43 *Eliz. ca. 11.* Is, where a man hath Common in the Lords wast Ground, and the Lord encloses part of the wast for himself, having nevertheless sufficient Common with egress and regress for the Commoners. This inclosing is called *Approbement*. See *Reg. Jud. fol. 8, 9.*

Approver, *Approbator*, Cometh of the French *Approver*, *Approbare*; It signifies one that confessing Felony of himself, appealeth or accuseth another, one or more to be guilty of the same; and he is called so, because he must prove that which he hath alledged in his Appeal, *Stamf. Pl. Cor. fol. 142.* And that Proof is by Battle, or by the Country, at his election that is appealed. The form of this Accusation you may in part gather by *Crom. Just. of Peace*, fol. 250, & 251. That it is done before the Coroner, either assigned unto the Felon, by the Court, to take and record what he saith, or else called by the Felon himself, and required for the good of the Prince and Common-wealth to record that which he saith, &c. The Oath of the Approver, when he beginneth the Combat, see also in *Cromp. pag. ult.* As also the Proclamation by the Herald. Of the Antiquity of this Law, you may see something in *Horne's Mirror of Just. lib. 1. in fine, cap. del Office del Coroner*; and more at large, *Brañon lib. 3. trañ. 2. ca. 21. & 34. Stamf. Pl. cor. lib. 2. ca. 52. cum seq. 3. Part, Inst. fol. 129.*

Approvers of the King, *Approbatores Regii*, Be such as have the letting of the Kings Demecans in small Mannors, to his best advantage. 51 H. 3. Stat. 5. And in 1 E. 3. ca. 8. The Sheriffs call themselves the *Kings Approvers*.

Approve, *Approbare*, Signifies in the Common-Laws to augment, or rather, to examine to the uttermost. As for Example, *To approve Lands* is to make the best benefit thereof by approving the Rent, or increasing it. And in *Crom. Jurisd. fol. 152.* the Substantive *Approbement* is used for the Profits themselves. So is it likewise in the Statute of *Meriton*, ca. 4. anno 2 H. 3. Land newly approved, *Old Nat. Brev. fol. 79.* and 9 H. 6. ca. 10. Bayliffs of Lords in their Franchises, be called their *Approvers*; But by 2 E. 3. ca. 12. *Approvers* be certain men especially sent into several

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Counries of the Rea'm, to increase the Farms of Hundreds and Wapentakes, which formerly were set at a certain rate to the Sheriffs, who likewise demised them to others, the County Court excepted. And *Approvers* in the Marches of Wales were such as had licence, *de vendre & acheter beafts, &c.* as appears by a Charter thereof from one *Richard de Lingeyne* to *Janin de Brompton*, dated the 11th day of July, in the 4th year of Henry the Fourth, and 2. Part, *Inst. fol. 474. Quod nullus libere tenens infra Baroniam illam se appruira possit de vasto suo, &c.*

Aquage, (*Aquagium, quasi aqua agium*) Non liceat facere dammas, &c. in aliquibus watergangeis, &c. *Ordinatio Marisci de Romeneys facta tempore, H. 3. & Ed. 1. pag. 72. See Watergage.*

Arbitrator, May be taken to proceed either from the Latine (*arbitrator*) or the French (*arbitre*) and signifieth an extraordinary Judge in one or more Causes between party and party, chosen by their mutual consents, *West. Sym. Part 2. tit. Comprimise, sect. 21*, who likewise divideth *Arbitrement* into general, that is, including all Actions, Quarrels, Executions and Demands, and especial which is of one or more Matters, Facts, or Things specified, *ibid. sect. 2, 3, 4.* The *Civilians* make a difference between *arbitrum* and *arbitratorem*, *lib. 76. π pro socio*; for though they both ground their power upon the compromise of the Parties, yet their liberty is divers; For *Arbiter* is tied to proceed and judge according to Law, with equity mingled. *Arbitrator* is permitted wholly to his own discretion, without solemnity of Process, or course of Judgment, to hear and determine the Controversie committed unto him. So it be *juxta arbitrium boni viri*. See *Alto & Basso*.

Arbitrement, Is an Award, or Determination, made by one or two, at the request of two Parties at least. To every *Arbitrement* five things are incident, *scil. 1.* Matter of Controversie. 2. Submission. 3. Parties to the submission. 4. Arbitrators. And 5. Giving up of the *Arbitrement*, *Dyer 217, Pl. 60.* How an *Arbitrement* may be avoided. See 7 H. 6. ca. 40. And *Termes de Ley, fol. 34.* Also no party shall be bound by any *Arbitrement*, unless the Award be delivered unto him. As it is, *Co. lib. 5. fol. 103.* And *lib. 8. fol. 98.*

Archies Court, (*Curia de arcubus*) Is the chief and most ancient Consistory that belongeth to the Archbishop of Canterbury, for the debating of Spiritual Causes; and is so called from the Church in London, dedicated to the Blessed Virgin, commonly called the Church of St. Mary le Bow, where it is held; and the Church is named *Bow Church*, from the fashion of the Steeple, whose top raised of Stone Pillars, is builded *Archwise*, like so many bent Bows. The Judge of this Court, is termed *The Dean of the Arches*, or *The Official of the Arches Court.* *Dean of the Arches*, because with this Officialty is commonly joyned a peculiar Jurisdiction of Thirteen Parishes in London, termed a *Deanry*, being exempt from the Authority of the Bishop of London, and belonging to the Archbishop of Canterbury; of which the Parish of Bow is one, and the principal, because the Court is there kept. Others conceit that he was first called *Dean of the Arches*, because

the *Official* to the Archbishop being many times employed abroad in Ambassages for the King and Realm; the *Dean of the Arches* was his Substitute in this Court, and by that means the Names became confounded. The Jurisdiction of this Judge is ordinary, and extendeth it self through the whole Province of Canterbury. So that upon any Appeal made, he forthwith, and without any farther examination of the Cause, sends out his Citation to the Appellee, and his Inhibition to the Judge from whom the Appeal was made. Of this you may read more in *Hist. de Antiquitate Eccles. Brittan.* And 4 Part, *Inst. fol. 337.*

Archives, *Archiva*, A derivative from *Arca*, a Chest. The *Rolls*, or any place where Ancient Records, Charters, and Evidences are kept; also the *Chancery*, or *Exchequer-Office*. Also the private Repository in *Libraries*.

Arma moluta, Seem to be sharp Weapons that do cut, and not blunt, which do only break or bruise, *Bras. lib. 3. traB. 2. ca. 23. & Stamf. Pl. Cur. 78, 79.* *Brasuns* words be these, *Arma moluta plagam faciunt, sicut gladius & hujusmodi; Ligna vero & lapides, brusuras, orbes & illius, qui judicari non possunt ad plagam, ad hoc ut inde venire possit ad ductum.*

Armoz, *Arma*, In understanding of Law, is extended to any thing that a man in his wrath or fury taketh into his hand, or wears for a defence, wherewith to cast at, or strike another, *Crompt. Just. of Peace, fol. 65. a.* So *Armorum appellatio non utique scuta & gladios significat, sed & fustis & lapides.*

Argentum Dei, Gods Money, That is, Money given in earnest upon the making of any Bargain.

Arabant, *Ad Curiam Domini*, Was intended of those who held by the Tenure of ploughing and tilling the Lands of the Lord, *infra Curiam*, i. e. *manerium suum*, *Spel. Gloss. verb. Arabant.*

Arpens or Arpen, English *Arpent*, signifies an Acre, and according to the old French account, mentioned in *Dooms-day Book*, one hundred Perches make an *Arpent*, 18 Foot a Perch, 12 Inches a Foot, *Columel. lib. 5. ca. 1.* *Demyarpent* they take for *Jugum*, or *Fugerum*.

Array, (*Arraya, alias Arraiamentum*) Cometh of the *Obsolete* French word *Array*, that is, *Ordo*, or it may probably be derived from *raye, linea*; It signifies in a legal acceptance, the ranking or setting forth of a Jury or Enquest of men empannelled upon a Cause, 18 H. 6. ca. 14. Thence we say to *Array* a Pannel, *Old N. B. fol. 157.* The *Array* shall be quasit, *ibid.* By the Statute, every *Array* in an Affize ought to be made four Days before, *Bro. tit. Pannel. nu. 10.* To challenge the *Array*, *Kitchin, fol. 92.* See *Challenge*. To lead and conduct persons armed and arrayed, 14 Car. 2. ca. 3.

Arrapers, Is used 12 R. 2. ca. 6. for such Officers as had care of the Soldiers Armor, and to see them duly accoutred in their kinds. Such were the Commissioners of *Array*, appointed by King Charles the First, 1642. And Edward the Third, in the first year of his Reign, appointed such Commissioners to *array* men against the Scots.

Arraigne or Arraine, From the French *Arranger*, that is, to set a thing in order in his place, and the same signification it hath in Law: For example, He is said to *Arraine* a Writ of

Novel Diffesin in a County, that fitteth it for Tryal before the Justices of the Circuit, *Old Nat. Brev. fol. 109. Lit. pag. 78.* useth the word in the same sence, *The Lease arraigneth an Assize of Novel Diffesin.* To arraign the Assize, is to cause the Tenant to be called, to make the Plaint, and set the Cause in such order, as the Tenant may be enforced to answer thereto, *Co. on Lit. fol. 262. b.* Also a Prisoner is said to be arraigned, when he is indicted and brought forth to his Tryal. *Arrain-ed* within the Verge for Murther, *Stamf. Pl. Cor. fol. 150.* The method of this Arraignment you may read in Sir Thomas Smith, *de Rep. Ang. lib. 2. ca. 23.* The famous Spelman thinks it should be *Arrame*, and that derived from *Arramare*, an obsolete Latine word, proceeding from the old French *arramir*, *jurare, solenniter profiteri*; but we rather stick to the old and common Writing.

Arrearages, Arrearagia, Deduced from the French *Arriérages*, as that from *arrière*, a retro, behind. It signifies the remainder of an Account, or sum of Money in the hands of an Accountant. It is used sometimes more generally for any Money unpaid at a due time, as *Arrearages* of Rent. That this word is borrowed from France, appears by *Tiraquel de utroque retrahit*, tom. 3. p. 32. num. 10.

Arrentation, From the Spanish *Arrendare*; which is as much as *ad certum redditum dimittere*, it is mentioned *Ordin. Foresta*, 34 E. 1. ca. 6. Signifies the licencing an Owner of Lands in the Forest to enclose them (*bassa baya & parvo Fossato*, with a low Hedge, and little Ditch) under a yearly Rent: *Saving of the Arrentations*, is saving power to give such Licences for a yearly Rent.

Arrest, Arrestum, Cometh of the French *Arrester*, to stop or stay, and is metaphorically used for a Decree, or Determination of a Cause debated, or disputed to and fro: As *Arrest du Senat*, is *Placitum Curia*: In our Common-Law it is taken most of all for a stay or stop, as a man apprehended for Debt, &c. is said to be *arrested*. To move or plead in *arrest* of Judgment, is to shew cause why Judgment should be staid, though there be a Verdict in the Case: To plead in *arrest* of taking the Enquest upon the former Issue, is to shew cause why an Enquest should not be taken, *Bro. tit. Repleader. Bud.* (saith Mr. Lambert, *Eirenar. lib. 2. c. 2. p. 94.*) in his Greek Commentaries, thinks that the French word *Arrest*, which with them (as we said) signifies the Decree, or Judgment of the Court, took beginning from the Greek *ἀρρεστόν*, i. *Placitum*, as we may say the pleasure of the Court; yet, I believe, rather that we receive the same from the Normans Law, because we use it in the same sence with them; for commonly with us an *Arrest* is taken for the Execution of the Commandment of some Court, or of some Officer of Justice; but howsoever the name began, an *Arrest* is a certain restraint of a mans person, depriving him of his own will, and binding him to become obedient to the will of the Law: Precepts, and Writs of the higher Courts of Law, do use to express it by two several words, as (*Capias*) and (*Attachies*) to take, or catch hold of: And, it seems, this word is spread farther then France, for Gale a German Wri-

ter sheweth by his Tractate, *De Arrestu Imperii*, that it is used in the Imperial Territories in the same signification, c. 1. n. 1. For preventing *Arrests of Judgment*, see 16 & 17 Car. 2. ca. 8.

Arrestandis bonis ne dissipentur, Is a Writ which lies for him whose Cattel or Goods are taken by another, who, during the Controversie, doth, or is like to make them away, and will hardly be able to make satisfaction for them afterward, *Reg. Orig. fol. 126. b.*

Arresto ipsum qui pecuniam recepit ad proficiscendum in obsequium Regis, &c. Is a Writ that lieth for the Apprehension of him that hath taken Prest-money towards the Kings Wars, and hides himself when he should go, *Reg. Orig. 24. b.*

Arresto facto super bonis mercatorum alienigenarum, Is a Writ that lies for a Denizon against the Goods of Strangers of another Country found within the Kingdom, in recompence of Goods taken from him in that Foreign Country, after denial of Restitution, *Reg. Orig. fol. 129. a.* This among the Civilians is called *Clarigatio*, but now barbarously *Reprisalia*.

Arretted, Arrestatus, Is he that is convicted before a Judge, and charged with a Crime, *Stamf. Pl. Cor. lib. 2. 45.* *Arrestatus* may seem a Compound, *quasi ad reatum vocatus*; It is sometimes used for imputed, or laid unto; as, no folly may be *arretted* to him being under age, *Lst. cap. Remitter*; the Latine Substantive *Reatus* is used in the *Reg. Orig.* And Chaucer useth the Verb *Arretted*, that is, lays blame, as it hath been interpreted: It may with some reason seem, that that word is the same with the *Reatus*, because *Bracton* saith, *Reatus habere Malefactorum*, that is, to have the Malefactor forth-coming, so as he may be charged, and put to his Tryal, *lib. 3. tract. 2. ca. 10.* And in the same *chap. nu. 3.* *Reatus de morte hominis*, that is, charged with the death of a man.

Artura, The trial of Money by Fire after it was coyned.

Articles of the Clergy, Articuli Cleri, Statutes made touching Persons and Causes Ecclesiastical, 9 E. 2. and 14 E. 3. Stat. 3.

Arundinetum, A place where Reeds grow, we find it mentioned in the Book of *Doomsday*.

Arthel, Anno 26. H. 8. ca. 6. Is a Britissh word, and more truly written *Arddelw*, which the South-Wales Men Write *Arddel*, and signifies (according to Doctor Davies Dictionary) *Astipulari, asserere*, in English to *Avouch*, *O deley dyn a' Lledrad yn ei law, rhaid iddo geisio Arddelw, &c.* that is, If a man be taken with stolen Goods in his hands, he must be allowed a lawful *Arddelw* (*Vouchee*) to clear him of the Felony, which is part of the Law of *Howel Dda*; but probably so abused in Henry the Eighth his Time, by the delay, or exemption of Felons, and other Criminals from Justice, that provision by the forementioned Statute was made against it.

Assay of Measures and Weights, Derived from the French *Essay*, i. a Proof or Trial, is the Examination used by the Clerk of the Market, *Reg. Orig. fol. 279.* *Ac assiam & assayam pannu, vini & cervisia*, *Paten. 37 H. 8. Tho. Marrow.*

Assayer of the King, (Assayator Regis) French *Assayeur*, Is an Officer of the Mint, for the

the due tryal of Silver, indifferently appointed between the *Master of the Mint*, and the Merchants that bring Silver thither for Exchange, 2 H. 6. ca. 12. Vessels of Gold shall be *assayed*, 28 E. 1. ca. 20. and 18 Car. 2. ca. 5. *Mandatum est, &c. quod convocatis in praesentia sua omnibus monetariis, Assayatoribus, &c. de cambiū Regis London, &c. provideat tot & tales, &c. qui, &c. ne Rex, &c. dampnum incurrat*, Claus. 17 H. 3. m. 8.

Assault, *Insultus* or *assultus*, Cometh of the French verb *Assayler*, i. *Adoriri*, *Invadere*, and that French word may be derived from the Latine *Affilire*, that is, *vim Afferre*, *Oppugnare*. It signifies in Law a violent kind of injury offered to a mans person, of a higher nature then Battery; for it may be committed by offering of a Blow, or by a threatening Speech, *Lambar. Eiren. lib. 1. ca. 3.* As to threaten a Collector with harsh words, so that he dare nor, for fear execute his Office, hath been reckon'd an *Assault*. To strike at a man, though he be neither hurt nor hit, hath been adjudged the like, 22 Lib. *Ass. Pl.* 60. That *Assault* doth not always imply a blow, or striking, appears, in that in Trespas for *Assault* and Battery, a man may be found guilty of the *Assault*, and excused of the Battery, 25 E. 3. ca. 24. The Feudists call this *Assultum*, and define it thus, *Assultus est impetus in personam aut locum, sive hoc pedibus fiat, vel equo aut machinis aut quacunque alia re affiliatur*, *Zahns de Feud. pa. 10. nu. 38.* And *assilire est vim Adferre*, *Lib. Feud. 1. tit. 5. sect. 1.*

Assach, Seemeth to be a Welsh word, and to signifie so much as a kind of excuse, or strange purgation, by the Oaths of 300 men. This of old was used in *Wales*; for so I find it explained in an old Manuscript, *Assach est un Fur. 300 homes in Gales*, but now it is utterly out of use, 1 Hen. 5. ca. 6.

Assart, *Assartum*, In the Opinion of *Manwood*, part 2. ca. 9. nu. 5. Of the Forist Law, comes from the French *Assartir*, signifying to make plain, *Assartum est quod redactum est ad culturam*, *Fleta, lib. 4. cap. 21. Item respondere*: It is saith the same *Manwood*, ca. 9. nu. 1. An offence committed in the Forist, by pulling up by the roots the Woods, that are thickets and covert for the Deer, and by making them plain as arable Land: This is reputed the greatest offence or trespass, that can be done in the Forist to *Vert* or *Venison*, containing in it *Wast*, or more; for whereas *Wast* of the Forest, is but the felling and cutting down of the Coverts, which may grow up in time again; an *Assart* is a plucking them up by the Roots, and utterly destroying them, that they can never grow again. And this is confirmed out of the Red Book in the Exchequer, in these words, *Assarta vero, occasiones nominantur, quando, &c. Foresta nemora vel dumeta, pascuis & latibulis ferarum opportuna succiduntur; quibus succisis & radicibus avulsis terra subvertitur & excolitur*. And again, out of the Reg. Orig. fol. 257. a b. in the Writ, *ad quod dampnum*, sent out in case where a man sueth for licence to *Assart* his Grounds in the Forist, and to make it several for Tillage; So that it is no offence, if done with licence. To this may *Bracton* also be added, lib. 4. ca. 38. nu. 11. where he saith, That the words *Boscus efficiatur assartum*, signifie as much as *reductus in cultu-*

ram. Of this, you may read more in *Crompt. Jur. fol. 203.* And in *Charta de Foresta*, 9 H. 3. ca. 4. where the English word is not written *Assart*, but *Assert*. And in *Manwood*, part 1. p. 171. The word is used, 4 E. 1. Stat. 1. in the same signification. That which we call *Assartum*, is elsewhere termed *disboscatio*: *Decret. Genu. 78. Qui tu de Esartiu*, we find in a Charter of Henry the First to the Abbot of *Ramer*, *Saet. 198. & in Pat. 18 E. 3. p. 1. m. 19. & quibusdam Sartiis quas, &c. Assart* was also anciently used for a parcel of Land *assarted*, as appears by a Charter of Roger Earl of *Mortimer*, without date; which is in the custody of Mr. *Thomas Bridgewater*.

Assembly unlawful, Coming from the French *Assembler*, id est, *Aggregare*, to flock together, whence also is the Substantive *Assembly*, *Congregatio*; in a legal sence, signifying the meeting of Three, or more persons, to do an unlawful act, although they do it not, *Lambar. Eiren. lib. 1. ca. 19. See unlawful Assembly.*

Asses, From the French *Asses*, i. *Satis*, *Bract. lib. 5. tract. 3. ca. 8. nu. 2.* And although this word wear the vizard of a Substantive, yet is it in truth but an Adverb, and signifies Goods enough to discharge that burthen, which is cast upon the Executor or Heir, in satisfying the Testators or Ancestors Debts and Legacies. See *Bro. tit. Asses per descens*, that whosoever infits upon *Asses*, intends thereby that the party charged hath enough descended, or come to his hands, to discharge the thing in demand. The Author of the *New Terms of Law* maketh two sorts of *Asses*. *Asses per descens*, and *Asses enter maynes*: *Asses per descens* is, where a man is bound in an Obligation, and dies seised of Land in Fee-simple, which descend to his Heir, then his Land shall be called *Asses*, that is enough or sufficient to pay the same Debt, and by that means the Heir shall be charged as far as the Lands so to him descended will extend. But if he have alienated before the Obligation be put in suit, he is discharged. Also when a man seised of Lands in tail, or in the right of his Wife, aliens the same with Warranty, and hath in value as much Lands in Fee-simple, which descends to his Heir, who is also Heir in tail, or Heir to the Woman; now if the Heir, after the decease of his Ancestor, being a *Writ of Formedon*, or *sur cui in vita*, for the Land so alienated; then he shall be barred, by reason of the warranty, and the Land so descended, which is as much in value as that which was sold, and so thereby he hath received no prejudice: therefore this Land is called *Asses per descens*. 2. *Asses enter maynes* is, when a man indebted, makes Executors, and leaves them sufficient to pay, or some commodity or profit is come to them in right of their Testator; this is called *Asses in their hands*.

Assigne, *Assignare*, It hath two significations, one general, as to appoint a Deputy, or set over a right unto another; in which sence *Bracton* saith (fol. 122.) This word was first brought into use for the favour of Bastards, because they cannot pass under the name of Heirs, and therefore were and are comprised under the name of *Assignees*. The other signification is special as to points at, or set forth, so we may say to assign Errors, *Old N.B. fol. 19.* that is, to shew where the Error is committed. To assign false Judgment, *Id. fol. 17.* that is, to declare how

how and where the Judgment is unjust. To assign a false Verdict, Id. fol. 112. And to assign Perjury, Anno 9 R. 2. cap. 3. To assign the Cessor, Old Nat. Brev. fol. 1341. To shew how the Plaintiff had ceased, or given over. To assign Waste, is to shew wherein especially the Waste is committed, Reg. Orig. fol. 72. Assign in the general signification is used, 20 E. 1. And 11 H. 6. ca. 2. in these words, Justices assigned to take assises. And the Substantive assignment hath the same signification, West. Symbol. par. 1. lib. 2. sect. 496. as the assignment of a Lease is the setting over the interest to another. In which manner is used also the word Assignee, assignatus for one that is appointed or deputed by another, to do any Act, or perform any Business, or enjoy any Commodity. And such an Assignee may be either by Deed, or in Law: Assignee by Deed is he that is appointed by a person, as when a Lessee of a term assigns the same to another, he is his Assignee by Deed; an Assignee in Law, is he whom the Law so makes, without any appointment of the person, Dyer, fol. 6. nu. 5. So an Executor is Assignee in Law to the Testator. Perkins (tit. Grants) saith, That an Assignee is he that occupieth a thing in his own Right, and Deputy is he that doth it in the right of another.

Assize, Cometh of the French Assise, which in the Grand Customary of Normandy, ca. 24. is thus defined. Assize is an Assembly of Knights, and other substantial men, with the Bayliff, or Justice, in a certain place, and at a certain time appointed: And again, ca. 55. Assize is a Court, in the which, whatsoever is done, ought to have perpetual strength. This word is properly derived from the Latin Verb *assideo* to sit together. Littleton in his Chapter Of Rents saith, That it is *Aquivocum*, setting down three several significations of it; one, as it is taken for a Writ; another, as it is used for a Jury; the third, as for an Ordinance. Assize then is taken for a Writ directed to the Sheriff, for the recovery of possession of things immovable, whereof any one, and his Ancestors, have been disseized. And this is as well of things corporeal, as right incorporeal, being of four sorts, as here follow in Order.

Assize of Novel Disseisin, *Assisa Nova Disseisina*, lies where a Tenant in Fee-simple, Fee-tail, or for term of Lite, is lately disseized of his Lands or Tenements, or else of a Rent-service, Rent-seck, or Rent-charge, of Common of Pasture, of an Office, of a Toll, Tonnage, Passage, Pannage, or for a Nuisance levied, and divers other such like; for confirmation whereof, you may read Glanville, lib. 10. cap. 2. Brañ. lib. 4. trañ. 1. per totum, Britton, ca. 70. & seq. Reg. Orig. fol. 197. F. N. B. fol. 117. 178, 179. New Book of Entries, fol. 74. col. 3. West. 2. c. 25. anno 13 E. 1. And to this may aptly be added the bill of Fresh force, which is directed to the Officers, or Magistrates of Cities, or Towns-Corporate, being a kind of Assize, for Recovery of Possession in such places, within forty Days after the Force, as the ordinary Assize is in the County, F. N. B. fol. 7. This the Civilians call, *Judicium Possessorium recuperandi*.

Assize of Mort d'Ancestor, *Assisa mortis antecessoris*, lyeth where my Father, Mother,

Brother, Sister, Uncle, Aunt, &c. died seised of Lands, Tenements, Rents, &c. that he had in Fee-simple, and after his death a stranger abateth: And it is good as well against the Abator, as any other in Possession. How this may be extended, see Brañ. lib. 4. trañ. 3. per totum, Brit. cap. 70. Fitz. Nat. Brev. fol. 114. Reg. Orig. fol. 223. This the Civilians call *Judicium Possessionum adipiscendi*.

Assize of Darrein Presentement, *Assisa ultima presentationis*, Lies where I and my Ancestor have presented a Clerk to a Church, and after the Church being void by his Death, or otherwise, a stranger presents his Clerk to the same Church in disturbance of me: And how otherwise this Writ is used. See Brañ. lib. 4. trañ. 2. Reg. Orig. fol. 30. F. N. B. fol. 195.

Assize de utrum, Lyeth for a Parson against a Lay-man, or a Lay-man against a Parson, for Land or Tenement doubtful, whether it be Lay-fee, or free-aims. And of this, see Brañ. lib. 4. trañ. 5. cap. 1. Brit. cap. 95. The reason why these Writs be called Assises, may be divers. First, because they settle the Possession, and so an outward right in him that obtaineth by them. Secondly, They were originally executed at a certain time and place formerly appointed. For by the Norman Law, the time and place must be known forty days before the Justice sat upon them: And by our Law likewise fifteen days of preparation, except they be tried in those standing Courts of the King at Westminster, as appeareth by F. N. B. fol. 177. Lastly, They may be called Assises, because they are tried most commonly by special Courts, set and appointed for that purpose, as may well be proved not only out of the Customary of Normandy, but our Books also; which shew, that in ancient times, Justices were appointed by special Commission to dispatch Controversies of Possession, one or more, in this or that only County, as occasions fell out, or Disseisins were offered, and that as well in Term-time as out of Term: Whereas, of later days, we see that all these Commissions of Assises, of Eyre, of Oyer and Terminer, of Gaol-delivery, and of Nisi prius, are dispatcht all at one time, by two several Circuits in the year, out of Term, and by such as have the greatest sway of Justice, being all of them either the Kings ordinary Justices of his Benches, Barons of the Exchequer, Sergeants of the Law, and such like; concerning which, hear the learned Lord Verulam in his Use of the Law, fol. 13. ad 21.

All the Counties of this Realm (says he) are divided into six Circuits, and two men learned in the Law are assigned by the Kings Commission in every Circuit, who ride twice a year through those Shires allotted to that Circuit; these we call Justices or Judges of Assize, who have five several Commissions by which they sit. The first is a Commission of Oyer and Terminer directed to them, and many others of the best account in their Circuits: But in this Commission the Judges of Assize are of the Quorum, so as without them, there can be no proceedings. This Commission gives them power to deal with Treasons, Murders, and all manner of Felonies and Misdemeanors, and this is their largest Commission. The second is of Gaol-delivery, and that only to the Judges themselves, and the Clerk of the Assize associate; by this Commission they are

to deal with every Prisoner in Gaol, for what offence soever he be there: The third Commission is directed to themselves only, and the Clerk of the Assize to take Assizes, by which they are called Justices of Assize; and the Office of these Justices, is to do right upon Writs called Assize, brought before them by such as are wrongfully thrust out of their Lands. The fourth Commission is to take *Nisi prius*, directed to none but the Judges themselves and their Clerks of Assizes, by which they are called Justices of *Nisi prius*. The fifth is a Commission of Peace in every County of their Circuit: And all the Justices of Peace, having no lawful impediment, are bound to be present at the Assizes, to attend the Judges, as occasion shall fall out; if any make default, the Judges may set a Fine upon him at their pleasure and discretions: The Sheriff of every Shire, is also to attend in person, or by a sufficient Deputy, allowed by the Judges, who may fine him, if he fail, &c.

Assize, In the second signification, according to Littleton, is used for a Jury; For (to use his own Example) it is set down in the beginning of the Record of an Assize of Novel Disseisin; as *Assisa venit recognitura*, which is as much to say, as *Juratores veniunt recognituri*: And the reason why the Jury is called an Assize, he giveth to be this, because by a Writ of Assize, the Sheriff is commanded, *Quod faciat duodecim liberos & legales homines de vicineto*, &c. *Videre tenementum illud & nomina eorum imbrevari*, & *quod summoncat eos per bonas summonitiones, quod sunt coram Justiciariis*, &c. *parati inde facere recognitionem*, &c. This is (to speak shorter) *Metonymia effectus*, for they are called the Assizes, because they are summoned by virtue of the Writ so called. And yet the Jury summoned upon a Writ of Rights, is likewise called the Assize, though it be not an Assize, but is so termed *μεταχρηστικῶς*, or abusively. Assize in this signification is divided into *magnam* & *parvam*, Glanv. lib. 2. cap. 6, 7, &c. and Brit. cap. 12. where it appeareth, wherein the Great Assize differeth from the Petit Assize. The former four kinds of Assizes used in Actions only Possessory be called Petit Assizes, in respect of the Grand Assize; for the Law of Fees is grounded upon two Rights, one of Possession, the other of Property. And as the Grand Assize serveth for the right of Property, so the Petit Assize serveth for the right of Possession. Horn's Mirror of Just. lib. 2. cap. de Novel Disseisin. Assize in the third signification, according to the same Littleton, is an Ordinance or Statute, as the Statute of Bread and Ale made 51 H. 3. is termed the Assize of Bread and Ale, *Assisa panis & cervisie*, Reg. Orig. fol. 279. The Assize of Clarendon, *Assisa de Clarendon*, whereby those that be accused of any heinous Crime, and not able to purge themselves by Fire and Water (perhaps *Ordale*, *Ordalum*) but must abjure the Realm, had liberty of forty days to stay, and try what Succour they could get of their Friends towards their sustentance in Exile, *Stamf. Pl. Cor. fol. 118.* which he seemeth to have taken out of *Braz.* lib. 3. tra. 2. cap. 16. num. 2. See also Roger Hoveden, *partie posterior. suar. annal. fol. 313. in Henrico Secundo.*

Assize of the Forest, *Assisa de Foresta*, Is a Statute or Condition, touching Orders to be observed in the Kings Forest. *Mantwood's Forest Laws*, part 1. p. 35. *Crompt.* in the Court of Justices

of the Forest, *per totum, fol. 146.* And the Assize of the King, Anno 18 Ed. 1. Stat. 1. called *The Statute for view of Frank-pledge*. And these be called Assizes, because they set down and appoint a certain Measure, Rate or Order in the things they concern. Of Assize, in this signification Glanville speaks, *Lib. 9. cap. 10. in fine. Generaliter verum est quod de quolibet placito quod in comitatu deducitur & terminatur, misericordia qua inde provenit, vicecomiti debetur: Qua quantitas sit, per nullam assisam generalem determinandum est: And thus much touching Littleton's Division. But if we mark well the Writers of the Law, we shall find this word Assize more diversely used, than he (Littleton) hath noted. For it is sometime used for the measure or quantity it self, (and that *per Metonymiam effectus*) because it is the very scantling described or commanded by the Ordinance; as we say, when Wheat, &c. is of such a price, then the Bread, &c. shall be of such assize. This word is further taken, for the whole process in Court upon the Writ of Assize, or for some part thereof, as the Issue or Verdict of the Jury; For Example, *Assizes of Novel Disseisin*, &c. shall not be taken, but in their Shires, and after this manner, &c. *Mag. Chart. c. 12.* and so it seems to signify, *West. 2. cap. 25. 13 Ed. 1.* In these words, *Let the Disseisor alledge no false Exceptions, whereby the taking of the Assizes may be deferred*, &c. And 34 E. 1. Stat. 2. If it be found by Assize; the Assize is awarded, to aver by the Assize, the Assize by their default shall pass against them. And also, 1 H. 6. c. 2. Assizes awarded by default of the Tenants, &c. Lastly, by Merton, cap. 4. an. 20 H. 3. certified by the Assize, quit by the Assize, &c. And in this signification Glanville calleth it, *Magnam Assisam Domini Regis, qua ex duodecim ad minus legalium hominum Sacramentis consistit*, lib. 2. cap. 7. *Braz.* useth it in like sort, as *Assisa cadit in transgressionem*, lib. 4. cap. 30. & *assisa cadit in perambulacionem*, Id. c. 31. num. 2. *Fleta* defineth an Assize in this signification, thus, *Assisa in jure possessorio, est quadam recognitio duodecim hominum juratorum, per quam Justiciariis certiorantur de articulis in brevi contentis*. And Assize also thus signifying, is said sometime to pass (*per modum Assise*) and sometime in *modum jurata*, in manner of an Assize, when only the Disseisin is in question, is put to the trial of the twelve, in manner of a Jury, when any exception is objected, to disable the interest of the Disseisin, and is put to be tried by the twelve, before the Assize can pass: As for example, *Quaestio status, causa successionis, causa donationis, pactum sive conditio vel conventio, voluntas & dissimulatio, transactio vel quiesca clamatio, vel remissio, confirmatio sive consensus, propria usurpationis rei propria, difficultas judicii, justum Judicium, finis, Chirographum, intrusio in rem alienam vel disseisina, si incontinenti rejiciatur, negligentia quae per transactum temporis excludit actionem*, *Fleta*, lib. cap. 10. sect. 1. Whom read also to this point, c. 11. sect. si autem a Domino, and at large, cap. 16. ejusd. lib. & lib. 3. cap. 6. sect. Item vertitur assisa. And note, That Assize in this signification is taken four ways, *Old Fitz. Nat. Brev. fol. 105.* The first is Assize at large, which is taken as well upon other Points, as upon the Disseisin, v. g. where an Infant bringeth an Assize, and the Deed of his Ancestor is pleaded, whereby he claimeth his Right, or*

or founded his Title, then the *Affise* shall be taken at large; that is, the Jury shall enquire not only whether the Plaintiff were disseised or not by the Tenant, but also of these two Points, viz. Whether his Ancestor were of full Age, of good Memory, and out of Prison, when he made the Deed pleaded. Another Example out of *Kitchin*, fol. 66. The Tenant pleadeth a Foreign Release, in bar to an *Affise*, whereupon the Cause was adjourned; At the day the Tenant make.h default, therefore the *Affise* was taken at large, that is, nor only whether the Plaintiff were disseised, but also whether there be any Foreign Release. A third Example you may read in *Littleton*, cap. *Estates upon Condition*. The second manner of *Affise* in point of *Affise* (*Affisa in modum Affise*) which is, when the Tenant, as it were, setting Foot to Foot with the Demandant, without farther circumstance, pleadeth directly to the Writ, *no Wrong, no Disseisin*. The third manner is, *Affise* out of the point of *Affise* (*Affisa extra Affisam, vel in modum jurata*) viz. when the Tenant alledgeth some by exception, that must be tried by a Jury, before the Principal Cause can proceed; as if he plead a Foreign Release, or Foreign Matter triable in another County. For in this case, the Justices refer the Record to the Court of Common-Pleas, for the trial of the Foreign Pleas, before the Disseisin can come to be discussed. Of this sort, read divers Examples in *BraB. lib. 4. part 1. cap. 34. and Britton, cap. 52*. The fourth and last manner is, *Affise of Right of Damages*; and that is, when the Tenant confesseth an *Ouster*, and referring it to a Demurrer in Law, whether it were rightly done or not, is adjudged to have done wrong; for then shall the Demandant have a Writ to recover Damages, which is called *Affise to recover Damages*, as also the whole Process. *Affise* is further taken for the Court, place or time, when and where the Writs and Processess of the *Affise* be handled or taken. And in this signification *Affise* is general; as when the Justices go their several Circuits, every couple with their Commission, to take all *Affises* twice in the year, which is called the *General Affise*; for he that speaketh of any thing done at that time, and in that place, will commonly say it was done at the *General Affise*. It may likewise be special in this signification, as if a special Commission should be granted to certain (as in ancient times they often were, *BraB. lib. 3. cap. 11. in fine*) for taking an *Affise* upon one Disseisin or two; any thing done in the Court before them, a man will say was done at such a *Special Affise*. And in this signification *Glanville* useth it, *Lib. 9. cap. 12. in these words, Si contra Dominum suum & non infra Affisam iunc distinguatur ipse occupator, &c.* And *lib. 13. cap. 32 M. Skene de verbor. Sig. tit. Affise*, saith, That in Scotland this word hath five significations, touching the Fifth, he hath these words, An *Affise* is called a certain number of Men lawfully summoned, received, sworn and admitted, to judge and discern in divers civil Causes, &c. whereof there be two kinds; one ordinarily in use, which may be called a *little Affise*, of the number of thirteen or fifteen persons; the other, a *great Affise*, consisting of twenty five persons, &c.

Affisa continuanda, Is a Writ directed to the Justices assigned to take an *Affise*, for the

continuance of a Cause, where certain Records alledged, cannot in time be procured by the Party that would use it, *Reg. Orig. fol. 217*.

Affisa prozoganda, Is a Writ directed to the Justices or *Affise*, for the stay of proceedings, by reason of the Kings business, wherein the party is employed, *Reg. Orig. fol. 208. & 221*.

Affisores, *Affisores*, sunt qui affisas condunt aut taxationes imponunt, saith *Spelman*. In Scotland, according to *Skene*, they are the same with our Jurors, and their Oath is this.

*We shall teil, swith say,
And na swith conceale, far na thing we may,
Sa far as we are charg'd upon this Affise,
Be God himself, and be our part in Paradise,
And as we will answer to God, upon
The dreadful day of Dome.*

Association, *Associatio*, Is a Patent sent by the King, either of his own motion, or at the suit of the Plaintiff, to Justices appointed to take *Affises* of *Novel Disseisin*, or of *Oyer and Terminer*, &c. to take others unto them as Fellows and Collegues in that business. As if the King makes three Justices of *Affise*, and afterwards one of them dies, there the King may grant a Patent of *Association* to another, to associate him to the two, in place of him that is dead, and a Writ which shall be close, directed to the two Justices that are alive to admit him, *F. N. B. 185. & 111*. The Examples, and sundry Uses hereof, may be found in several places, but particularly in the *Register Origin. fol. 201, 202, 205, 206, 207, 223, 224*.

Affoyle, (*Absolvere*) Signifies to deliver, or set free from an Excommunication, *Stamf. Pl. Cor. lib. 2. cap. 18. fol. 71. b.* whose words are to this effect, otherwise the Defendant should remain in Prison, till the Plaintiff were *affoyled*, that is, delivered from his Excommunication. So in *1 H. 4. cap. 10.* mention being made of King Edward the Third, it is added, *Whom God affoyle*.

Assumpsit, Is a voluntary Promise made by word, whereby a man assumeth, or taketh upon him, to perform or pay any thing unto another. This word includeth any verbal Promise made upon consideration, which the *Civilians* express by divers words, according to the nature of the Promise, calling it sometimes *PaSum*, sometime *Sponsunem*, sometime *Promissionem*, *Pollicitationem*, or *Constitutum*. The word is derived from the Latine Verb *Assumpsit*, and bears the sence of, he hath assumed upon him, or undertaken.

Attrihiltet, or *Attrahiltet*, Is a Saxon word, and denot.s, say *LL. divi Edwardi, cap. 30. Hi qui pacem Regi habent, vel manu vel brevi, &c. Qui si nimis confidens in pace quam habet, per superbiam alicui forisfecerit, damnum restituet & iterum tantundem, quod Angli vocant Attrihiltet.* See *Hoveden, pag. 606*.

Atia. See *Odio & Atia*.

At large, *Ad largum*. See *Verdict at large*, *Lit. fol. 98*. To vouch at large, *Old Nat. Brev. fol. 1. 8*. To make Title at large, *Kitchin, fol. 68*. See *Bar*.

Attache, *Attachare*, Cometh from the French *Attacher*, that is, *figere, necare, alligare*; In

In the Common-Law, it signifies to take or apprehend by Commandment or a Writ or Precept, *Lamb. in his Eirenarch. lib. 1. cap. 16.* maketh this difference between an *Arrest*, and an *Attachment*; that an *Arrest* proceedeth out of lower Courts, by Precept; and an *Attachment* out of higher Courts, by Precept or Writ; and that a Precept to Arrest hath these formal words, (*Duci facias*) and a Writ of *Attachment* these words, (*Præcipimus tibi quod Attachies talem & habeas cum coram nobis, &c.*) Whereby it appeareth, that he which arresteth, carrieth (or ought to carry) the Party arrested to a person of higher power to be disposed of forthwith; he that attacheth, keepeth the Party attached, and presents him in Court at the day assigned. Yet we may take notice, that an *Attachment* issueth out of a Court-Baron, which is an Inferior Court, *Kitchin Attachment in Court-Baron, fol. 79.* Another difference there is, that an Arrest on'y lies upon the Body of a Man, but an *Attachment* chiefly upon his Goods: And this also makes it differ from a *Capias*, which lays hold only of the Body, whereas a man may be attached by an hundred Sheep. Other Differences between a *Capias*, an *Attachment*, and a *Distress*, may be these. First, an *Attachment* differs from a *Capias*; that in a Court-Baron, a man may be attached by his Goods, but a *Capias* shall not go out thence. Secondly, A *Capias* (be it the *Grand Cape*, or the *Petit Cape*) taketh hold of immovable things, as Lands or Tenements, and properly belong to Actions real, as may be gather'd from their Forms, *F. N. B.* whereas *Attachment* hath place rather in personal Actions, *Brañ. lib. 4. trañ. 4. cap. 5. num. 5.* See *Skene de verbo Sign. tit. Attachiamenium*. In the next place, an *Attachment* differs from a *Distress*, *Kitch. fol. 78.* holds, That the Process in a Court-Baron, is *Summons, Attachment and Distress*, *Old Nat. Brev. fol. 27.* That the Process in a *Quare impedit*, is *Summons, Attachment*, and one *Distress*. And *fol. 28.* speaking of the Writ, *Ne admittas*, saith, The Process is one Prohibition, and upon that *Attachment and Distress*. And *fol. 32.* in a Writ of *Indicavi*, after the *Attachment* returned, the *Distress* shall go out of the Rolls of the Justices. *Brañon* on the other side, *Lib. 5. trañ. 3. cap. 4. num. 2.* thinks, that *Attachiamenium & magnum Cape*, sunt *distractiones*; wherewith agrees *Fleta*, *lib. 5. cap. 24.* but with this distinction, that *Attachiamenium est distractio personalis*, & *Cape magnum distractio realis*. So that upon the whole matter, there are but two Differences between an *Attachment* and a *Distress*, viz. That an *Attachment* reacheth not to Lands, as a *Distress* doth; and a *Distress* toucheth not the Body (being properly taken) as an *Attachment* doth. Yet are they divers times confounded, as appears by the fore-mentioned places, and *Glanv. lib. 10. cap. 3.* and *Fleta*, *lib. 2. cap. 66.* But to conclude, in common acceptance of Law, an *Attachment* is an apprehension of a man by his Body, to bring him to answer the Action of the Plaintiff. A *Distress* is the taking Goods for some real Cause, as Rent, &c. whereby to force him to Replevy, and so become Plaintiff in an Action of Trespass against him that distrained him. There is also an *Attachment* out of Chancery, and may be had of course upon Affidavit made of the Service of the Sub-pæna, and the Defendants not appearing, or else Issues upon

not performing some Order or Decree: And they are of two sorts, one simple, which is that before-mentioned, originally sent out for apprehension of the Party: The other, after Return made by the Sheriff, *Quod Defendens non est inventus in balliva sua*, with Proclamation made through the whole County, that the party appear by a day assigned, and that he be attached nevertheless, if he may be found. This second kind hath an affinity with the Canonists (*vin & modu*) at which, if the party appear not, he is Excommunicate; and with the Civilians, *Vin & modu una cum intimatione*; for if in the Chancery he come not in upon this *Attachment* with Proclamation, a Writ of Rebellion issues forthwith, *West. 2. part. Symbolæog. tit. Proceedings in Chancery*.

Attachment of Privilege, Is by vertue of a Mans Privilege, to call another into that Court whereto himself belongeth; and in respect wherof he is Priviledged, *New Book of Entries*, verbo *Privilege*, *fol. 431.*

There is also a *Forein Attachment*, which is of a Foreigners Goods found in some Liberry or City, to satisfy some Creditor of his within such Liberry or City. And by the Custom of London, a man may attach Money or Goods in the hand of a Stranger, while he is within their Liberry. As if A. owes B. ten pounds, B. may attach this ten pounds in the hands of C. *Calvertons Rep. pag. 66.*

There is also an *Attachment of the Forest*, which is one of the three Courts there held, *Manwood, p. 93, &c. 99.* The lower Court is called the *Attachment*; the middle one, the *Swainmote*; the highest, the *Justice in Eyres seat*. The Court of *Attachment* seemeth to be so called, because the *Vordors* of the Forest have therein no other Authority, but to receive the *Attachments* of Offendors against Vert and Venison, taken by the rest of the Officers, and to enroll them, that they may be presented and punished at the next *Justice Seat*, *Manwood, par. 1. p. 93.* and this attaching is by three means, 1. By Goods and Chattels. 2. By the Body, Pledges and Mainprise. 3. By the Body only. This Court is kept every forty days. See *Crompton* in his *Court of the Forest*. For the diversity of *Attachments*, see *Reg. Orig. verbo Attachiamenium, in Indice*.

Attaint, Attinza, Is used for a Writ that lieth after Judgment, against a Jury, that hath given a false Verdict in any Court of Record, be the Action Real or Personal, if the Debt or Damages amount to above the sum of Forty Shillings. For the Form and Use of it, see *F. N. B. fol. 105.* and the *New Book of Entries*, *fol. 84. col. 1.* The reason why it is so called, seemeth to be, because the party that sueth it out, endeavoureth thereby to stain the Jury with Perjury, by whose Verdict he is grieved, whose punishment by the Common-Law consisted in these particulars; 1. *Quod amittat liberam Legem in perpetuum*, he shall never be received as a Witness, or admitted a Juror, &c. 2. *Quod forisfacia: omnia bona sua & catalla*. 3. *Quod terra & tenementa in manus Domini Regis capiantur*. 4. *Quod uxores & liberi extra domus suas ejicerentur*. 5. *Quod domus sua prostermentur*. 6. *Quod arbores sua prostermentur*. 7. *Quod prata sua arentur*. 8. *Quod corpora sua carceri mancipentur*, *Co. on Lit. lib. 3. cap. 8. sect. 514.* See also *Glanville*, *lib. 2. cap. 19.* *Fitz. Nat. Brev. fol. 109. 110.* *Termes de*

de Ley, verb. *Attaint*. Fortescue, *cap.* 26. Smith, de Rep. Anglor. lib. 3. *cap.* 2. And 11 H. 7. *cap.* 21. & 23 H. 8. *cap.* 3. It is a Substantive made of the French (*Atteindre*) i. *assequi vel attingere*, because he is caught and overtaken; or rather of the French (*teindre*) in Latine (*tingere*) to stain, die, or colour, or give a tincture, unde *Gallice Teint*, Latine *Tinctus*, as we in English say attained or tainted of Treason, that is stained Minsh.

Attainted, *Attatus*, Is used in our Common-Law, particularly for such as are found guilty of some Crime or Offence, especially Felony or Treason: Howbeit a man is said to be *attainted* of Disceisim, *Westm.* 1. *cap.* 24. & 36. anno 3 Ed. 1. and so the French use it, as *Esse attains* & *vayncu en ascun case*, that is, to be cast away in any case. A man is *attainted* by two means, By Appearance, or by Process, *Stamf. Pl. Cox. fol.* 44. *Attainder* by Appearance, is by Confession, by Battel, or by Verdict, *Id. fol.* 122. *Confession*, whereof *Attainder* groweth, is double, one at the Bar before the Judges, when the Prisoner, upon his Indictment read, being asked whether *Guilty* or not *Guilty*, answers *Guilty*, never putting himself upon his Country; the other is, before the Coroner in Sanctuary, where he was in former times upon his Confession constrained to abjure the Realm, and therefore this kind of *Attainder* was called *Attainder* by *Abjuration*, *Id. fol.* 182. *Attainder* by *Battel* is, when the party appealed by another, and chusing to try the truth by Combat, rather than by Jury, is vanquished, *Id. fol.* 44. *Attainder* by *Verdict* is, when the Prisoner at the Bar, answering to the Indictment, *Not Guilty*, hath an Enquest of Life and Death passing upon him, and is by their Verdict found *Guilty*, *Id. fol.* 108. & 192. *Attainder* by Process otherwise called *Attainder* by *Default* or *Outlawry*, is, where a party flieth, and is not found, until he have been five times publickly called in the County, and at the last Outlawed upon his Default, *Id. fol.* 44. The same Author, *fol.* 108. makes a difference between *Attainder* and *Conviction*. And with this agreeth the Statute 34 & 35 H. 6. *cap.* 14. and 1 E. 6. *cap.* 12. Add hereto 2 & 3. E. 6. *cap.* 33. And *Stamf. fol.* 66. saith, A man by our ancient Laws, was said to be convicted presently upon the Verdict (*Guilty*) but not to be *attainted*, till it appeared he was no Clerk, or being a Clerk, and demanded of his Ordinary, could not purge himself; whereby it appeareth, that *Attainder* is larger than *Conviction*, *Conviction* being only by the Jury: And *Attainder* is not before Judgment, *Perkins, Grants, num.* 27. 29. This ancient Law touching the Purgation and Conviction of Clerks, is altered by 23 Eliz. *cap.* 2. as you may read further in *Clergy*.

Attainder, *Attinere* and *Attinere*, Is when a man hath committed Felony or Treason, and Judgment is passed upon him. The Children of a person *attainted* of Treason, cannot be Heirs to him, or any other Ancestor; and if he were Noble and Gentle before, thereby his Posterity are Degraded and made Base; and this corruption of Blood cannot be saved, but by Act of Parliament. See *Attaint*, *Attainted* and *Felony*.

How far the tenure of Gavel-kind sa'ves in such

case, we will not dispute, only set down what Tenants in that kind have among themselves as a Maxim, viz.

*The Father to the Bough,
The Son to the Plough.*

But many of those Tenures are within the last Century, altered by Statute; the Reasons whereof are not to our purpose here.

Attendant, *Attendens*, Signifies one that oweth a Duty or Service to another, or after a sort dependeth of another. For Example, There is a Lord, Mesne, and Tenant, the Tenant holdeth of the Mesne by a penny, the Mesne holdeth over by two pence: The Mesne releaseth to the Tenant all the right he hath in the Land, and the Tenant dieth; his Wife shall be endowed of the Land, and she shall be *Attendant* to the Heir of the third part of the penny, not of the third part of the two pence; For she shall be endowed of the best Possession of her Husband. And *Kitchin fol.* 109. saith, That where the Wife is endowed by the Guardian, she shall be *Attendant* to the Heir at his full age: With whom agrees *Perkins in Dower*, 424.

Attorney, *Attornatus*, Cometh of the French word (*Tourner*) *vertere*. Thence cometh the Participle (*tourne*) *Versus*, *Conversus*, and the Substantive (*tour*) *vices*, as *Chacun a son tour, quilibet sua vice*. It signifies in a legal acceptation, one appointed by another Man to do any thing in his stead, and is as much as *Procurator* or *Syndicus* in the Civil-Law: *West. Symb. part.* 1. lib. 2. *sect.* 559. defines them thus, Attorneys be such persons, as by the Consent, Commandment, or Request of another, do take heed, see to, and take upon them the Charge of other mens Business in their absence. And it seemeth that in ancient time, those of Authority in Courts, had it in their power, whether they would suffer men to appear, or sue by any other then themselves; as it is evident by *F. N. B. fol.* 25. In the Writ *Dedimus Potestatem de attornato faciendo*, where it appears, that men were forced to procure the Kings Writs, or Letters Patent, to appoint Attorneys for them; but since that, it is provided by several Statutes, that it should be lawful so to do without any such matter, as 20 H. 3. *cap.* 10. 6 E. 1. *cap.* 8. 27 E. 1. *Stat.* 2. 12 E. 2. 1. 15 E. 2. *cap.* unico, 7 R. 2. *cap.* 14. 7 H. 4. 13. 3 H. 5. 2. 15 H. 6. 7. and 17 H. 7. 2. And you may see great diversity of Writs in the Table of the *Register Origin*. wherein the King, by his Writ, commandeth the Judges to admit of Attorneys; whereby there grew at last so many skilful Attorneys, and so many Mischiefs by them, that provision for restraining them was requisite. Wherefore anno 4 H. 4. *cap.* 18. It was Ordained, That the Justices should examine them, and displace the unskilful. And again, 33 H. 6. *cap.* 7. that there should be but a certain number of them in *Norfolk* and *Suffolk*. In what Cases at this day a man may have an Attorney, and in what not, see *Fitzh. ubi supra*.

Attorney is either general or special. *Attorney General* is he, that by general Authority is appointed to manage all our Affairs or Suits; As the *Attorney General of the King*, which is as much as *Procurator Cæsaris* was in the Roman Empire. *Attorney General of the Duke*, *Crompt. Jurisd. fol.* 105.

105. *Attorney Special or Particular*, is he that is employed in one or more Causes particularly specified: *Attorneys General* be made after two sorts, either by the Kings Letters Patents, or by appointment before Justices in Eyre in open Court, *Glanville*, lib. 11. cap. 1. *Britton*, cap. 126. There be also in respect of the divers Courts, *Attorneys at large*, and *Attorneys special*, belonging to this, or that Court only. The Name is borrowed of the Normans, as appears by the *Customary*, cap. 65. And the word *Attornatus*, or as some read it *Turnatus*, is found in the same signification in the Title, *De statu regularium ca. unico*, scilicet porro in sexto, where the Gloss saith, That *Attornati dicuntur Procuratores, apud alia constituti*: Our old Latine word for it seems to be *Responsalis*, *Bract.* lib. 4. 31. & lib. 5. part 2. cap. 3. And so it is in Scotland at this day, but especially for the Defendants Attorney. *Skene de verb. signif. Responsalis*, as *Sigonius* witnesseth in his first Book, pag. 11. *De Regno Italia*, was in ancient time the Title of the Popes Embassador.

Attorney of the Court of Wards and Liveries, Attornatus Regis in Curia Wardorum & Liberatarum, Is the third Officer in that Court; at his admission into the Office, he taketh an Oath before the Master of the said Court, well and truly to serve the King, &c. But the Court of Wards and Liveries being it self taken away by the Statute, 12 Car. 2. cap. 24. This Office is gone, and therefore we will say no more of it.

Attorney of the Court of the Dutchy of Lancaster, Attornatus Curie Ducatus Lancastrie, Is the second Officer in that Court, and seemeth for his skill in Law, to be then placed as *Assessor* to the Chancellor of that Court, being for the most part some Honourable Person, and chosen rather for some special trust reposed in him; to deal between the King and his Tenents, than for any great Learning; as was usual with the Emperors of Rome, in the choice of their Magistrates.

Attournment, Attornamentum, Signifies the Tenants acknowledgment of a new Lord; for otherwise, he that buyeth any Lands or Tenements which are in the Occupation of a third, cannot get the Possession. Yet see 27 H. 8. cap. 16. the words used in *Attournment*, are set down by *Lisleton*, lib. 3. cap. *Attournment* 10. viz. I agree to the Grant made to you, &c. or, more usually, Sir, I attourn to you by force of the same Grant; or, I become your Tenant, or else deliver unto the Grantee a penny by way of *Attournment*; you may in the same place see divers other Cases, whereto *Attournment* appertaineth, and that it is the transposing those Duties the Tenant ought to his former Lord, unto another, and is either by word, or by act, &c. *Attournment* also is voluntary or compulsory, by the Writ termed, *Per quod servitia*, *Old Nat. Brev.* fol. 155. Or sometime by Distress, *F. N. B.* fol. 147. Lastly, *Attournment* may be made to the Lord himself, or to his Steward in Court, *Kitchin*, fol. 70. There is also *Attournment in Deed*, and *Attournment in Law*, *Co. vol. 6. fo. 113. a.* *Attournment in Law* is an Act, which though it be no express *Attournment*, yet in intendment of Law is all one.

Attornato faciendo vel recipiendo, Is a Writ which a Man owing suit to a County, Hundred, Wapentake, or other Court, and desiring to

make an *Attorney* to appear for him, whom he doubteth, whether the Sheriff or Bayliff will admit, or not, purchaseth to command him to receive and admit him. The form thereof, see *F. N. B.* fol. 156.

Avage or Avisage, Is a Rent or Payment which every Tenant of the Mannor of *Wristel* in *Essex*, upon St. Leonards day, the Sixth of November, pays to the Lord, viz. for every Pig not a year old, a half-penny; for every yearling Pig, one penny; for every Hog above a year old, two pence; for the priviledge of *Pawnage* in the Lords Woods.

Audiendo & terminando, Is a Writ, but more properly a Commission, directed to certain persons, when any riotous Assembly, Infurrection, or heinous Misdemeanor or Trespas, is committed in any place for the appeasing and punishment thereof, which you may read at large in *F. N. B.* fol. 110. See *Oyer and Terminer*.

Audience Court; Curia Audientia Cantuariensis, Is a Court belonging to the Archbishop of Canterbury, of equal Authority with the *Archbishops Court*, though inferior both in Dignity and Antiquity: The Original of this Court was, because the Archbishop of Canterbury hear many Causes extrajudicially at Home in his own Palace, in which, before he would finally determine any thing, he did usually commit them to be discussed by certain men learned in the Civil and Canon Laws, whom thereupon he termed his *Auditors*; and so in time it grew to one special Man, who at this day is called (*Consuevus negotiorumq; audientia Cantuariensis auditor seu officialis*.) And with this Office was joyned heretofore the Chancery of the Archbishop, which medleth not with any point of contentious Jurisdiction, that is, deciding of Causes between Party and Party, (except such as are ventilated *pro forma* only, as the Confirmation of Bishops Elections, or such like) but only of Office, and especially such as are *voluntaria jurisdictionis*, as the granting the Custody of *Spiritualities*, during the vacation of Bishopsricks; Institutions to Benefices, dispensing with Banes of Matrimony, &c. But this is now distinguished from the *Audience*. Of this *Audience Court*, you may read more in the Book, *De Antiquit. Eccles. Britan. Historia*, and 4. *Inst.* fol. 337.

Audita querela, Is a Writ that lieth against him, who, having taken a Statute-Merchant, or Recognisance in the nature of a Statute-Staffe, or a Judgment or Recognisance of another, and craving, or having obtained execution of the same from the Mayor and Bayliffs, before whom it was entred, at the complaint of the Party, who entred the same, upon suggestion of some just cause, why Execution should not be granted, as a Release, or other Exception. This Writ is granted by the Lord Chancellor of England, upon view of the Exception suggested to the Justices of either Bench, willing them to grant Summons to the County, where the Creditor is, for his appearance at a certain day before them. See more in *Old Nat. Brev.* fol. 66. and *Fug. Nat. Brev.* fol. 105.

Auditor, (Auditor) According to our Law, is an Officer of the King, or some other great

personage, which yearly, by examining the Accounts of all under-Officers accountable, makes up a general Book; which shews the difference between their Receipts and Charge, and their Allowances commonly termed *Allocations*: As namely, the *Auditors* of the *Exchequer* take the Accounts of those Receivers, who collect the Revenues of the Augmentation, as also of the Sheriffs, Escheators, Collectors and Customers, and set them down, and perfect them; concerning which, see the Stat. 33 H. 8. cap. 33. and 4. Inst. fol. 106.

Auditors of the Writs or Imprests, Are also Officers in the *Exchequer*, who take and make up the great Accounts of *Ireland*, *Berwick*, the Mint, and of any Money imprested to any man for the Kings Service. See *Practice of the Exchequer*, p. 83.

Auditor of the Receipts, Is also an Officer of the *Exchequer*, that files the Tellers Bills, and makes an Entry of them; and gives the Lord Treasurer a Certificate of the Money received the week before. He maketh also *Debensturs* to every Teller, before they pay any Money, and raketh their Accounts: He keepeth the black Book of the Receipts, and the Treasurers Key of the Treasury, and seeth every Tellers Money lockt up in the New Treasury.

Adventure, (But more properly *Adventure*) Is a Mischance, causing the death of a Man, without Felony; as when he is suddenly drowned or burnt, falling into the Water or Fire, or kill'd by any Disease or Mischance, *Britten*, cap. 7. where you may see how it differs from *Misadventure*. See *Misadventure*.

Avenage, (From the Latine *Avena*, Oats) Signifies a certain quantity of Oats paid to a Landlord in lieu of some other Duties, or, as a Rent from the Tenant.

Avenor, Is an Officer belonging to the Kings Stables, and provides Oats for his Horses; he is mentioned 13 Cor. 1. Cap. 3.

Avera, Is found in *Doomsday Book*, and signifies a Days-work of a Plough-man, that is, eight pence, 4 Inst. fol. 269.

Average, (*Averagium*) By *M. Shenes* Opinion, is derived from the word *Averia*, Cattel, and consequently signifies Service which the Tenant owes to the Lord by Horse, or carriage of Horse. It seemeth with us to have two significations; First, *Rassall*, tit. *Expofition of words*, maketh mention of the Kings *Averages*, which I take to be the Kings Carriages by Horse or Cart. Then, *Anno 32 H. 8. cap. 14.* and 1 Jac. cap. 22. it is used for a certain contribution that Merchants, and others, do make proportionably towards their Losses, who have their Goods cast into the Sea, for the safeguard of the Ship, or of the other Goods and Lives of them in the Ship, in the time of a Tempest. And this Contribution seemeth to be so called, because it is proportioned after the rate of every mans *Average*, or Goods carried. In this last sense it is also used in the Stat. 14 Car. 2. cap. 27. *Average*, is also a little duty, which those Merchants, who send Goods in another mans Ship, do pay the Master of it, for his care over and besides the Freight: For in the Bills of Lading, they usually say, ---Paying so

much Freight for the said Goods with Primage and Average accustomed.

Avertis captis in Mithernam, Is a Writ, for the taking of Cattel to his use, that hath his Cattel unlawfully taken by another, and driven out of the County where they were taken, that they cannot be replevied, *Reg. Orig. fol. 82.* When one Beast is spoken of, we say, *Quidam equus vel bos*; but when more, it is not said in the plural number, *Equi* or *boves*, but *tot averia*.

Averment, *Verificatio*, Cometh from the French *Averer*, i. *testari*, signifies commonly an offer of the Defendant, to make good or justify an Exception pleaded in abatement or bar of the Plaintiffs Action; and there is reason, why it should rather signify the act, then the offer of justifying the Exception. *Fot. Ann. 24 Ed. 1. Stat. 2.* And the Demandant will offer to *aver* by the Assise or Jury, where to offer to *avere*, and to *avere* must needs differ; And again in the same Statute. And the Demandant will offer to *aver* by the Country, &c. Thirdly, In the English *Nat. Brev. fol. 57.* These Errors shall be tried by Averment, &c. This *Averment* is twofold, general and particular; a general *Averment*, which concludes every Plea, &c. or in Bar of Replication and other pleadings, containing matters Affirmative, ought to be *averred* with these words, *Et hoc paratus est verificare*, &c. Particular *Averment*, is when the life of Tenant for Life, or Tenant in Tail is *averred*, &c. And an *Averment* contains as well the Matter as the Form thereof, *Co. on Lit. fol. 362. b.*

Averpeny, (*Quasi Average-peny*) Is Money contributed towards the Kings *Averages*, or to be freed thereof, *Rassall Expofit. verb. Aver-peny est quietum esse de diversis denariis pro averagin Dom. Regis.* See *Average*.

Augmentation, *Augmentatio*, Was the Name of a Court, erected 27 H. 8. as appeareth by the 27th Chapter of that Years Parliament; and the end thereof was, that the King might be justly dealt with touching the profit of such Religious Houses, and their Lands, as were given to him by Act of Parliament the same year, not printed: For the dissolving of which Court, Authority was given to Queen Mary, by the Parliament held the First year of her Reign, *Self. 2. cap. 10.* which she afterward put in execution by her Letters Patent. The Name of the Court sprung from hence, That the Revenues of the Crown were augmented so much by the suppression of the said Houses, as the King reserved unto the Crown, and neither gave nor sold away to others. But the Office of *Augmentation* remains to this day, wherein there are many Records of great Use and Importance.

Auillage. See *Avenge*.

Aumogier. See *Almoger*.

Aumone, (French *Aumosne*, that is, Alms) Tenure in *Aumone*, is a Tenure per liberam Eleemosynam, *Britten*, fol. 164. As where Lands are given to some Church, or Religious House, upon condition, That some Service or Prayers shall be offered at certain times, for the good of the Donors Soul. See *Frank Almone*.

Aumonier. French *Aumonier*. Vide *Almoner*.

Ave, Is the Name of a Writ, for which, see *Ayle*.

Auncel-weight, Is as if we should say, *Hand-sale-weight*, being a kind of weight with Scales hanging, or Hooks fastned to each end of a Staff, which a Man lifting up upon his forefinger or *hand*, discerneth the quality or difference between the *weight*, and the thing *weighed*. In which, because there was wont to be great deceit, it was forbidden by several Statutes, as 25 E. 3. Stat. 5. cap. 9. and 34 E. 3. cap. 5. and 8 H. 6. cap. 4. and the even Ballance Commaunded; yet nevertheless this *weight* continued in use in divers parts of England, notwithstanding the Constitution of Henry Chicheley, Archbishop of Canterbury, 1430. *Pro abolitione ponderis vocati*, Le Auncel-weight, &c. *qui utitur Excommunicandus*, but now it is utterly abolished by a late Statute made 22 Car. 2. cap. ult.

Auncient Demeasne. See *Antient Demeasne*.

Avoydance, Hath a double signification; the one, when a Benefice becomes void of an Incumbent; the other, when we say in Pleadings in Chancery, confessed or *avoyded*, traversed or denied is true, &c. See *Voydance*.

Avowee, *Advocatus*. See *Advowee*, Britton, cap. 29. faith, That *Avowee* is he to whom the Right of *Advowson* of any Church appertaineth, so that he may present in his own Name: And is called *Avowee*, for a difference from those that sometimes present in another Mans name; as a Guardian, that presenteth in the name of his Ward; and for a difference also from those, which have the Lands, whereto an *Advowson* appertaineth, but only for term of their Lives, or of Years, or by Intuision, or by Disseisin.

Avowry, Is where one takes a Distress for Rent, or other thing, and the other sues *Replevin*, then the taker shall justify his Plea for what cause he took it; and if in his own Right, he ought to shew it, and *avow* the taking. But if he took it in the right of another, then when he has shewed the Cause, he shall make Cognisance of the taking, as Bayliff or Servant to him in whose right he did it, *Termes de Ley*, 73 C. 21 H. 8. cap. 19. For the more speedy and effectual proceeding upon Distresses and *Avowries*. See 17 Car. 2. cap. 7.

Avoir du pois, It is in true French *Avoir due poise*, that is, *Habere pondus*, or *justi esse ponderis*. In Law it signifies two things: First, a kind of weight diverse from that which is called *Troy-weight*, containing twelve Ounces to the Pound, whereas this containeth Sixteen. And in this respect it may probably be conjectured, That it is so called, because it contains a greater weight than the other. Secondly, It signifieth such Merchandise as are weighed by this weight, and not by *Troy-weight*, as in the Statute of York, 9 E. 3. in *Proemia*, 27 E. 3. Stat. 2. cap. 10. 2 R. 2. cap. 1. See *Weights*.

Aurum Reginz, The Queens Gold, Rot. Pat. 52 H. 3. m. 6. Vide *Lucet Gold*.

Austurus, A Goshawk; In some Deeds there is referred as a Rent to the Lord, *unum Austurum*.

Awayte, 13 R. 2. cap. 1. Seems to be that which we now call *Way-laying*, or lying in *wait* to do a Mischief.

Award, May be derived from the French *Agarder*, and is properly the Judgment of one that is neither assigned by Law, nor appointed by the Judges, for the ending a matter in Controversy, but is chosen by the parties themselves that are at Variance. And may seem to be called an *Award*, because it is imposed on both Parties, *ad custodiendum seu observandum*. Spelm.

Awme, Mentioned, 1 Jac. cap. 33. and 13 Car. 2. cap. 4. Is a Measure of Rhenish-wine, containing forty Gallons; yet you may read in an old printed Book these words, --- *The Rood of Rhenish-wine of Dordrecht is ten Awames, and every Awame is fifty Gallons*. Item, *the Rood of Antwerpe is fourteen Awames, and every Awame is thirty five Gallons*.

Auxilium ad filium militem faciendum & filiam maritandam, Is a Writ formerly directed to every County, where the King, or other Lord, hath Tenants, to levy of them reasonable *Aide* towards the Knighting of his Son, and Marriage of his Daughter. See *Aide*, and F. N. B. fol. 82. But this is utterly taken away by a Statute made; 12 Car. 2. cap. 24.

Ayde, Is where a particular Proprietor is impleaded, and not being able to defend the thing for which he is impleaded, he prayeth *Ayde* of some better able; which is performed two ways: First, In a Plea real, *Tenens petit auxilium de A. S. sine quo responderi non potest*. 2. In a Plea personal, and then the Defendant *petit auxilium ad manutenendum exitum*.

B.

Bachelor, *Baccalaureus*, Cometh of the French word *Bachalier*, that is, *Tyro*, a Learner; and thereupon I gather, those that be called *Bachelors* of the Companies of London, be such of each Company, as are springing towards the estate of those that are employed in Council, but as yet are Inferiours. For every of the Twelve Companies hath a Master, two Wardens, the Livery, and the *Bachelors*. I have read in an old Monument, this word *Bachelor* attributed to the Lord Admiral of England, if he be under a Baron. This word is used, 13 Rich. 2. Stat. 2. cap. 1. and signifieth the same with *Knight-Bachelor*, 3 E. 4. cap. 5. that is, a *Simple Knight*, and not a *Knight Banners*. Touching the farther Etymology of this word, *Baccalaurei*, (*teste Romanus*) *a bacillo nominati sunt, quia primi studii authoritatem qua per exhibitionem baculi concedebatur jam consecuti fuissent*, &c.

Barberine, Is a Saxon word; and almost good English at this day, signifying so much as bearing upon the back, or about a Man. *Bratton* uses it for a sign or circumstance of theft apparent, which the *Civilians* call *Furtum manifestum*, for dividing *furtum* into *manifestum* & *non manifestum*, he defineth *Furtum manifestum* in this sort, *Furtum vero manifestum est, ubi latro deprehensus est scissum de aliquo latrocinio, scil. Handhabead & Backberinde & insequutus fecerit per aliquem cuius res illa fuerit*, lib. 3. tract. 2. cap. 32. *Manwood* in his *Forest Law*, part 2. Noteth it for one of the four Circumstances or Cases, wherein a Forrester may arrest the

H 2

Body

Body of an Offendor against Vert or Venifon in the Forest. For by the Affise of the Forest of Lancaster (saith he) taken with the manner, is, when one is found in the Kings Forest in any of these four degrees, viz. *Stable-stand, Dog-draw, Backbear* and *Bloody-hand*; in which place you may find all these interpreted.

Badger, Cometh from the French *Bagage*, that is, *Sarcinia* a bundle or fardle; and thence is derived *Bagagier*, a Carrier of bundles: It is used with us for one that is licenced to buy Corn, or other. Victuals in one place, and carry them to another to sell; and such a one is exempted in the Statute made in the 5 & 6 of Ed. 6. cap. 14. from the punishment of an Ingrosser within that Statute. See *Crompton's Just. of Peace*, fol. 69, 70.

Bay or Penn, Is a Pond-head made up of a great height, to keep in store of Water, so that the wheel of the Furnace or Hammer belonging to an Iron-Mill, may stand under them, and be driven by the Water coming out of them by a Passage or Floodgate, call'd the *Penstock*, and falling upon the said Wheels. This word is mentioned in the Statute 27 Eliz. cap. 19.

Baile, (*Ballium, plevina, manucapcio*) Cometh of the French (*bailler, tradere*.) It is used in our Common-Law properly for the freeing or setting at liberty of one arrested or imprisoned upon Action, either Civil or Criminal, under Surety taken for his appearance at a day and place certainly assigned, *Bract. lib. 3. traB. 2. cap. 8. num. 8. & 9.* The reason why it is called *Bayle*, is, because by this means the party restrained is delivered into the hands of those that bind themselves for his forth-coming: There is both *common* and *special Bail*; *Common Bail* is in Actions of small Concernment, and is called *common*, because any Sureties in that case are taken; whereas, upon Causes of greater weight, or apparent speciality, *special Bail* or Surety must be taken, as Subsidy-men at the least, and that to the value. *Manwood* in his *Forest Laws*, part 1. pag. 167. makes a great difference between *Bail* and *Mainprise*, saying, He that is *mainprised*, is always said to be at large, and to go at his own Liberty out of War, after that he is let to *Mainprise*, until the day of his appearance, by reason of the said common Summons, or otherwise: But it is not so; where a Man is let to *Bail* by four or two Men, by the Lord Chief Justice in Eyre of the Forest, until a certain day, for there he is always accounted by the Law, to be in their Ward and Custody for the time: And they may, if they will, keep him in Prison or Ward during that time. So that he which is so *bailed*, shall not be said by the Law to be at large, or at his own Liberty. See *Lam. Eiren. lib. 3. cap. 2. pag. 330.* *Bail* is also a certain limit within the Forest, according as the Forest is divided into the particular Charges of several Foresters, *Crompton* in the Oath of *Bowbearer*, fol. 201. See *Mainprise*, and 4 *Inst. fol. 178.*

Bailment, Is a delivery of things, whether Writings, Goods, &c. to another, sometimes to be delivered back to the *Baylor*, that is, to him that so delivered it; sometimes to the use of the *Bailee*, that is, of him to whom it is delivered, and sometimes also it is delivered to a third person: This delivery is called a *Bailment*.

Bayliff, (*Ballivus*) Cometh of the French word *Bayliff*, that is, *Præfectus provincia*, and as the Name, so the Office it self in ancient time was answerable to that of *France* and *Normandy*; For as in *France* there be several Parliaments, which be high Courts, from which lies no Appeal; and within the Precincts of the several Parts of that Kingdom, that belong to each Parliament, there be several Provinces, unto which, within themselves, Justice is Ministred by certain Officers called *Bayliffs*. So in *England* we see many several Counties or Shires, within the which Justice hath been Ministred to the Inhabitants of each County, by the Officer whom we now call *Sheriff* or *Viscount*; the one of which Names descends from the *Saxons*, the other from the *Normans*. And I cannot expressly prove; That this *Sheriff* was ever called a *Bayliff*; yet it is probable, that might have been one of his Names, because the County is many times called *Balliva*, a *Bayliwick*. As in the Return of a Writ, where the Person is not arrested, he saith, *Infra-nominatus A. B. non est inventus in balliva mea*. *Kitchin Ret. Brev. fol. 287.* And again, in *Bracton*, lib. 3. traB. 2. cap. 33. num. 3. and 5 *Eliz. 23.* and 14 *E. 3. Stat. 1. cap. 6.* And, I think, the word *Bayliff* used, cap. 28. of *Magna Charta*, compriseth as well *Sheriffs*, as *Bayliffs* of Hundreds. So 14 *E. 3. Stat. 1. cap. 9.* But as the Realm is divided into Counties, so every County is again divided into Hundreds; within which it is manifest, that formerly the Kings Subjects had Justice ministred to them by the several Officers of every Hundred, which were called *Bayliffs*. See *Lupanus de Magistrat. Francor. lib. 2. cap. Balivi*. And the *Grand Custumary of Normandy*, cap. 1. And the truth hereof *Bracton* attests, lib. 3. traB. 2. cap. 34. num. 5. Where it appeareth, That *Bayliffs* of Hundreds might hold Plea of Appeal and Approvers. But since that time, these Hundred-Courts (certain Franchises excepted) are by the Statute 14 *E. 3. Stat. 1. cap. 9.* dissolved into the County Courts, as you may read in County and Hundred. And the *Bayliffs* Name and Office is grown into such contempt, that now they are only Officers to serve Writs, and do such base Offices within their Liberties, *Crompt. Just. of Peace*, fol. 49. a. Yet is the Name still in good esteem otherwise, for the chief Magistrates in divers Towns be called *Bayliffs*; as in *Ipswich*, *Yarmouth*, *Colchester*, and other places: And there be other to whom the King gives the Custody of his Castles, which are called *Bayliffs*, as the *Bayliff of Dover-Castle*.

These ordinary *Bayliffs* are of two sorts, *Bayliffs Errants*, and *Bayliffs of Franchises*; *Bayliffs Errant*, *Ballivi Itinerantes*, be those which the Sheriff maketh and appointeth to go hither and thither in the County to serve Writs, to Summon the County, Sessions, Assizes, and such like. *Bayliffs of Franchises*, *Ballivi Franchisiarum aut Libertatum*, be those that be appointed by every Lord within his Liberty, to do such Offices within his Precincts, as the *Bayliff Errant* doth at large in the County. Of these, read Sir *Thomas Smith*, *De Rep. Ang. lib. 2. cap. 16.* There be also *Bayliffs of the Forest*, *Manwood*, part. 1. pag. 113. There be likewise *Bayliffs of Husbandry*, belonging to private men of great Substance, who seem

to be so called, because they dispose of the under-servants, every man to his Labour and Task, check them for misdoing their business, gather the Profits to their Lord and Master, and deliver an Account for the same at the years end, or otherwise, as it shall be called for. The Office or Duty of a Bayliff of a Mannor, or Household, (which in ancient time seemeth to have been all one) *Fleta* well describeth, *Lib. 2. Cap. 72. 73.* This word is also used in the Canon-Law, *cap. dilecti de sentent. excom. in sexto & c. 1. de penis in clement.* Where the Glossographer saith, It is a French word, signifying as much as *Præpositus*, and *Baliva* and *Balivatus* is used among our Interpreters of the Civil and Canon Law for *Provincia*, as *Baliva* here with us in England is taken for a County or Shire.

Bailiff of the Poort. See *Moot.*

Bale, a Pack, or quantity of Goods or Merchandise, as a Bale of Silk, Cloth, &c. the word is used in 16 R. 2. *Cap. 1.* and still in use.

Balenger, By the Statute 28 H. 6. *Cap. 5.* seems to be a kind of Birge, Boar, or Water-Vessel.

Baliva, In the Statute of *Marlbridge*, 52 H. 3. *Cap. 2.* It is said, ---- *ubi Balivam habeat vel jurisdictionem.* Here *Baliva* is well expounded by the Statute it self; for in this place it signifies *Jurisdiction*, *Co. Inst. fol. 105.*

Balivo amovendo, Is a Writ to remove a Bayliff out of his Office, for want of sufficient living in his Bayliwick, *Reg. Orig. fol. 78.*

Balkers or Balkors. See *Conders.*

Ban or Bans, *Bannum* signifieth a publick Notice given of any thing: The Word is ordinary among the *Feudists*, and grown from thence to other uses, as to that which we here in England call a *Proclamation*, whereby any thing is publicly commanded or forbidden, *Vincent. de Franchis. de scitu 521. & 360. Hostianus verbo Bannus, in verbis Feudalibus*, saith, That there is both *bannum* and *bannum*, and that they signifie two divers things. But in England we use this word *Bans*, especially in publishing of Matrimonial Contracts in the Church, before Marriage, That if any Man can say ought against the intention of the Parties, either in respect of Kindred, pre-contract, or otherwise, they may take their Exception in time. And in the Canon-Law, *Banna sunt Proclamationes sponsi & sponsæ in Ecclesiis fieri solite*, *Cap. 27. extra desponsal. &c.* Yet our word (*Banning*) seems to come thence, being an exclamation against, or Cursing of an other. *Brañon* in one place mentions *Bannum Regi* for a Proclamation, or Silence made in Court by the Crier, before the meeting of Champions to a Combat, *Lib. 3. TraB. 2. Cap. 21. In terra ditionis sue Bannum, id est, Interdictum misit, quod est Prohibitio, &c.* *Histo. Norm. Edit. 1619. fol. 85. b.*

Bane, (Proceeds from the Saxon *Bana*, a Murderer,) and signifies the destruction or overthrow of any thing, *Brañ. Lib. 3. TraB. 2. Cap. 1. Nu. 1.* He which is the Cause of another Mans Death is said to be *Labane*, a Malefactor. So when a Man receives a Mortal Prejudice by any thing, we commonly say, such a thing was his *Bane*.

Baneret, Bannerettus, Miles vexillarius, in Mr. *Skene's* Opinion, seemeth to be compounded of *baner* and *rent*. But *Cambden* in his *Britannia*, pag. 109. derives it from the German *Bannerhegeres*. Sir *Tho. Smith*, *Lib. de Rep. Ang. Cap. 18.* saith, That a *Baneret* is a Knight made in the Field, with the Ceremony of cutting off the point of his Standard, and making it, as it were, a *Banner*: And accounted so honourable, that they are allowed to display their Arms in the Field in the King's Army, as Barons do. These are *Cambden's* Words, *locò supra citato, Baneretti, cum Vassalorum nomen jam desierat, à Baronibus secundi erant; quibus inditum nomen a vexillo, Concessum illis erat Militariis virtutibus ergo quadrato vexillo, (perinde ac Barones) uti, unde & Equites Vexillarii à nonnullis vocantur, &c.* Of creating a Knight *Baneret*, read M. *Segar-Norroy* his Book, *Lib. 2. Cap. 10.* That they be next to Barons in Dignity, appears by the Statute, 14 R. 2. 11. and by 5 R. 2. *Stat. 2. Cap. 4.* It may be conjectured, That they were antiently called by Summons to the Court of Parliament. And 13 R. 2. *Stat. 2. Cap. 1.* we find, That a *Baneret* for praying a Pardon for a Murderer, is subject to all one Punishment with a Baron. *Henry the Seventh* made divers *Banerets* upon the Cornish Commotion, Anno 1495. See further *Seldens* Titles of Honour, fol. 799. and *Co. Inst. 4. fol. 6.*

Bank, Bancus cometh of the French *Banque*, i. *Mensa*. In our Common-Law, it is most usually taken for a Seat or Bench of Judgment; as *Bink le Roy*, the Kings Bench, *Bank de Common Pleas*, the Bench of Common-Pleas, *Kitchin. fol. 102.* called also in Latine *Bancus Regi*, & *Bancus communium Placitorum*, *Crompt. Just. fol. 67. & 91.* *Cambden* also in his *Brit.* calls them, *Bancum Regium & Bancum Communem*; there is another sort of *Bank*, which signifies a place where a great Sum of Money is let out to use, returned by Exchange, or otherwise disposed to Profit. *Jus Banici* was of old allowed to the Judges of the Superior Courts, for Inferiour Courts were not allowed that Priviledge. See *Free-bank* and *Free-bench*.

Bankrupt, Quasi bankus raptus, or Bankrupt, because when the *Bank* or *Stork* is broken or exhausted, the Owner is said to be a *Bankrupt*. The composition of the French Word, I take to be this, *Banque*, that is, *Mensa*; and *Routte*, that is, *Vestigium*, Metaphorically taken for the sign left in the Earth, of a Table once fastened into it, and now taken away. So that the Original seemeth to be drawn from those *Romane Mensarii*, which, as appeareth by many ancient Writers, had their *Tabernacles & Mensæ* in certain publick places, where they fled, and deceived Men that had put them in trust with their Money, they left but the Signs or Carcasses behind them. But *Bankrupt* with us signifieth his or her act, that having gotten other Mens Goods into his Hands, hideth himself in places unknown, or in his own private House, not minding to restore to his Creditors what is due to them. In the Statute made 34 H. 8. *Cap. 4.* The French Word *Banque Routte faire*, is literally translated to make *Bankrupt*. And by 1 Jac. *Cap. 15.* a *Bankrupt* is thus described. *All and very such persons using, or that shall use the Trade of Merchandise, by way of Bargaining, Exchange, Bartery, Chevisance, or otherwise in Gross, or by seeking*

bi, her, or their Trade of Living by Buying and Selling, and being a Subject born within this Realm, or any the Kings Dominions, or Denizen, who at any time since the first day of this present Parliament, or at any time hereafter shall depart the Realm, or begin to keep his, her, or their House or Houses, or otherwise, to absent him or herself, or take Sanctuary, or suffer him or herself willingly to be arrested for any debts or other thing not grown or due, for Money delivered, Wares sold, or any other just or lawful cause, or good consideration or purpose, or hath or will suffer him or herself to be outlawed, or yield him or herself to Prison, or willingly, or fraudulently hath, or shall procure him or herself to be arrested, or his or her Goods, Money, or Chattels to be attached or sequestered, or depart from his or her Dwelling-house, or make, or cause to be made any fraudulent Grant, or Conveyance of his, her, or their Lands, Tenements, Goods or Chattels, to the intent, or whereby his, her, or their Creditors, being Subjects born, as aforesaid, shall, or may be defeated, or delayed for the recovery of their just and due Debts; or being arrested for Debt, shall after his or her arrest, lye in Prison Six Months, or more, upon that Arrest, or any other Arrest or Detention in Prison for Debt, and lye in Prison six Months upon such Arrest or Detention, shall be accounted and adjudged a Bankrupt to all intents and purposes. But a later Act, made 14 Car. 2. Cap. 23. hath provided, That no person whatsoever, who shall adventure in the East-India or Guiney-Company, or in the Royal Fishing Trade, shall be esteemed a Merchant or Trader within any Statute of Bankrupt, or lyable to the same.

Bannum vel Banileuga, The utmost bounds of Mannor or Town, so used, 47 H. 3. Rot. 44. *Carta*, &c. *Notum facio*, me elemosynam nostram Christo concessisse & omnibus Sanctis suis, &c. viz. primo Terram illam a Twiwellis usque Thorney, ubi Bannum nostrum cessat.

Banishment, *Exilium*, *abjuratio*, Cometh of the French word *Banissement*, and hath a signification known to every Man: But there be two kinds of *Banishment* in England; one voluntary, and upon Oath, whereof you may read *Abjuratio*; the other upon Compulsion, for some Offence or Crime. As if a Lay-man succour him that having taken Sanctuary for an Offence, obstinately refuseth to abjure the Realm, he shall lose his Life and Member. If a Clerk do so, he shall be banished, *Stamf. Pl. Cor. fol. 117.* This punishment is also of our modern Civilians called *Bannimentum*, which was antiently termed (*deportatio*) if it were perpetual, or (*religatio in insulam*) if for a time, *Vincent. de Franchib. Per. de Belluga in suo speculo, fol. 125. nu. 4.*

Barator. See *Barractor*.

Barberries, (*Oxycantha*) A Thorny Shrub, known to most men to bear a Berry or Fruit red, and of a sharp Taste. These Berries, as also the Leaves of the said Tree, are medicinable, as Gerard sheweth in his *Herbal*, *Lib. 3. Cap. 21.* you find them mentioned among Drugs to be gathered, *Anno 1 Jac. Cap. 9.*

Barbican, (*Barbicanum*) A Watch-Tower or Bulwark, *Mandatum est*, &c. *Custodi Castri Regii & Honoris de P. quoddam Barbicanum antea paratum*, &c. & in eodem Barbicano quandam portam cum ponte Versatili, &c. de novo facere, &c. *1. Rege 10. Aug. Claus. 17. E. 2. m. 39.*

Barcaria or *Barquarium*, Cometh of *Berr* a Tan-house; but in a legal sense more usually denotes a Sheep-coat, and derived from the French word *Bergery*.

Barcartii, or rather *Barquarii*, May be taken for Shepherds; for we usually say, *Berecarium* a Shepherd, and both seem to come from the French Word *Beragier*.

Barb, alias *Beard*, See *Clack*.

Bargain and Sale, As it seemeth by *West. Symb. Par. 1. Lib. 2. Sect. 436.* Is properly a Contract made of Mannors, Lands, Tenements, Hereditaments, and other things, transferring the property thereof from the *Bargainer* to the *Bargainee*; whereto the Author of the *New Terms of Law* addeth, That it ought to be for Money, saying withal, that it is a good Contract for Land, &c. and that Fee-simple passeth thereby, though it be not said in the Deed, *To Have and to Hold the Land to him and his Heirs*: And though there be no Livery and Seisin made by the Vendor, so it be by Deed indented, sealed and enrolled, either in the County where the Land lies, or within one of the Kings Courts of Record at *Westminster* within six Months after the date of the Deed, according to 27 H. 8. cap. 16.

Barkary, *Barcaria*, Is a Heath-house, *New Book of Entries*, tit. *Affise. corp. polit. 2.* Some call it a Tan-house.

Baron, (*Baro*) Is a French Word, and hath divers significations here in England. First, It is taken for a Degree of Nobility next unto a Viscount, *Bras. Lib. 1. Cap. 8. Num. 4.* saith, They are called *Barones*, quasi, *robore belli*. And in this signification it is borrowed from other Nations, with whom *Baronia* be as much as *Provincia*, *Petr. Belluga in specul. Princip. fol. 119.* So then *Barons* seem to be such, as have the Government of Provinces, as their Fee holden of the King; some having greater, some lesser Authority within their Territories: Yet it may probably be thought, that of old times here in England, they were called *Barons* that had such Signiorities, as we now call *Court-Barons*, as they be at this day in France called *Seigneurs*, that have any such Mannor or Lordship. And the Learned in Antiquities have affirmed, That soon after the Conquest, all such came to the Parliament, and sat as Peers in the Upper-House. But when by experience it appeared, that the Parliament was too much pestered by such multitudes, it grew to a custome, that none should come, but such as the King for their extraordinary Wisdom and Quality, thought good to call by Writ; which Writ also then ran (*hac vice tantum*.) But then Men seeing this estate of Nobility to be but casual, and to depend merely upon the Princes Pleasure, they sought a more certain Hold, and obtained of the King Letters Patent, to settle such Honour upon them, and their Heirs-Male, and these were intituled *Barons by Patent*, or Creation, whose Posterity be now by Inheritance, and true descent of Nobility, those *Barons* that be called *Lords of the Parliament*, of whom the King may create at his pleasure. Yet nevertheless, there are *Barons by Writ*, as well as by Letters Patent, and they may be discerned by their Titles, because the *Barons by Writ* are those that to the Title of Lord, have their own Surnames annexed, whereas *Barons by Letters Patents* are

are named by their *Baronies*. These *Barons* which were first made by *Writ*, may now justly be called *Barons by Prescription*, for that they have continued *Barons* by themselves and their Ancestors beyond the Memory of Man. The Original of *Barons* by *Writ*, *Camden* in his *Brit. Pa.* 109. referreth to *Henry the Third*. *Barons by Letters Patent*, or Creation (say our Antiquaries) commenced in the time of *Richard the Second*; the manner of whose Creation, read in *Stow's Annals*, p. 1121. *Seldens Titles of Honour*, fol. 687. *Fernes Glory of Generosity*, pag. 125, 126. *Skene de verb. Sign.* tit. Baro. And *Sir Tho. Smith*, *Lib. 1. de Rep. Ang.* cap. 17. saith, That none in *England* is created a *Baron*, unless he can dispend 1000 *li. per Annum*, or at least 1000 Marks. To these *Seyar* (by *Office Norroy*) *lib. 4. cap. 13. Of Honour, Civil and Military*, addeth a third kind of *Baron*, calling them *Barons by Tenures*, and those be the Bishops of the Land, all which, by vertue of *Baronies* annexed to their Bishopricks, have always had place in the Upper-House of Parliament, and are termed *Lords-Spiritual*.

Baron in the next signification, is an Officer, as *Barons of the Exchequer* be to the King, of which the Principal is called *Lord Chief Baron* (*Capitalis Baro*) and the three other (for so many there be) are his Assistants in Causes of Justice, between the King and his Subjects, touching Causes appertaining to the *Exchequer*. The *Lord Chief Baron* is at this day the Chief Judge of the Court, and in matter of Law, Information, and Plea, answereth the Bar, and giveth Order for Judgment thereupon. He alone in the Term-time doth sit upon *Nisi prius* that come out of the King's Remembrancers Office, or out of the Office of the Clerk of the Pleas, which cannot be dispatcht in the Mornings for want of time. He taketh Recognizances for the King's Debts, for appearances and observing of Orders. He taketh the Presentation of all Officers in Court under himself, and of the Mayor of *London*, and sees the King's Remembrancer to give them their Oaths: He taketh the Declaration of certain Receivers, Accounts of the Lands of the late Augmentation made before him by the Auditors of the Shires; and giveth two *Parcel-makers* places by vertue of his Office. The second *Baron*, in the absence of the Lord chief Baron, answers the Bar in matters aforesaid. He also taketh Recognizances for the Kings Debts, appearances, and observing of Orders: He giveth yearly the Oath to the late Mayor and Escheator of *London*, for the true Account of the Profits of his Office: He taketh a Declaration of certain Receivers Accounts. He also examineth the Letters and Sums of such Sheriffs foreign Accounts, as also the Accounts of Escheators and Collectors of Subsidies and Fifteenths as are brought unto him by the Auditors of the Court. The third *Baron*, in the Absence of the other two, answereth the Bar in matters aforesaid, and taketh Recognizances as the former. He giveth yearly the Oath of the late Mayor and Gawger of *London* for his true accounting. He also taketh a Declaration of certain Receivers Accounts, and examineth the Letters and Sums of such of the former Accountants as are brought unto him. The fourth *Baron* is always a Curstitor of the Court, and hath been chosen of some

one of the Clerks of the Remembrancers Offices, or of the Clerk of the Pipes Offices; He at the days of prefixion, taketh Oath of all High-Sheriffs, and their Under-Sheriffs, and of all Escheators, Bayliffs, and other Accountants, for their true accounting. He taketh the Oath of all Collectors, Controulers, Surveyors and Searchers of the Custome-Houses, that they have made true Entrances in their Books. He opposeth all Sheriffs upon their Summons in open Court: He informeth the rest of the *Barons* of the Course of the Court in any matters concerning the Kings Prerogative: He likewise, as the other *Barons*, taketh the Declaration of certain Receivers Accounts, and examineth the Letters and Sums of such of the former Accountants as are brought unto him.

These *Barons of the Exchequer* are ancient Officers, for I find them Named, *Westm. 2. cap. 11. Annu 13. E. 1.* and they be called *Barons*, because *Barons* of the Realm were wont to be employed in that Office, *Fleta, Lib. 2. Cap. 24.* *Sir Tho. Smith* saith of them, That their Office is to look to the Accounts of the Prince, and to that end they have Auditors under them, as also to decide all Causes appertaining to the King's Profits, coming into the Exchequer by any means. This is proved in part by the Statutes of 20 *E. 3. cap. 2. 27 E. 3. Stat. 2. Cap. 18. 5 R. 2. Stat 1. Cap. 9. and 12 and 14 R. 2. 11.* And hereupon they have of late been Men learned in the Common Laws of the Realm, whereas in ancient time they were other, viz. *Majores & discretiores in Regno, sive de Clero essent, sive de Curia.* *Ockham* in his *Lucubrations, De fisci regis ratione.* *Hornes Mirror of Just.* saith, That the *Barons* were wont to be two, and they Knights, *Cap. de la place del Eschequer.*

There are also *Barons* of the Cinque-Ports; 31 *E. 3. 2. and 33 H. 8. Cap. 10.* which are two of every the seven Towns of *Hastings, Winchelsea, Rye, Romney, Hise, Dover, and Sandwich*, that have places in the lower House of Parliament, *Crump. Jur. fol. 28.*

Baron in the third Signification, is used for the Husband in relation to his Wife, which is so ordinary in all Law-Books written in French, that it would be vain to mention any one.

The Chief Magistrates of *London* were also called *Barons*, before they had a Lord Mayor, as will appear by several ancient Charters, particularly one of *H. 3.* in these words, *Henricus Rex. Sciatis nos concessisse et hac presentis charta nostra confirmasse Baronibus nostris de Civitate London, quod eligant sibi Mayer de seipso singulis annis, &c.* See *Spelman. Gloss.* at large upon this word.

Baronet, Baronetus, Is a Dignity or degree of Honour, and hath precedency before Banerets, Knights of the Bath, and Knights Bachelors, excepting only such Banerets as are made *sub Vexillo Regis in aperto bello, & ipso Rege personaliter presente.* This Order was erected by King *James, 1611*, as may appear in *Rot. Pat. 10 Jac. part. 10. m. 8. & 14 Jac. par. 2. m. 24.* with an *Habendum sibi & Hereditibus masculis.* Therefore we may believe, that where the word *Baronets* is mentioned in our old Statutes, and ancient Authors, it is mistaken for *Banerets*, 2. *Inst. fol. 667.* And *Seldens Titles of Honor*, fol. 736.

Barony, (Baronia, Baronagium,) Is that Honour

Honour that gives title to a *Baron*, under which Notion are contained not only the Fees and Lands of Temporal *Barons*, but of Bishops, who have two Estates, one as they are Spiritual Men; without Possession, as was the Tribe of *Levi* among the *Israelites*, being sustained only by the First-Fruits and Tithes of the other Tribes, *Josh. ca. 13. ver. 14.* The other respect they have, growth from the bounty of our English Kings, whereby they have *Baronies* at the least, and by that are Lords of Parliament. This *Barony* (according to *Bracton, lib. 2. cap. 34.*) is a right indivisible, and therefore if an Inheritance be to be divided among Coparceners, though some capital Messuages may be divided, yet, *Si capitale Messuagium sit caput Comitatus, vel caput Baroniz*: he saith, They may not be parcell'd. The reason is, *Nec sic caput per plures particulas dividatur, & plura fura Comitatus & Baroniarum deveniant ad nihilum, per quod deficiat regnum, quod ex Comitatibus & Baronis dicitur esse constitutum.* There are other *Barons* which bear that Title to this day, but are no *Barons* of Parliament. Such were those constituted by *Hugh Lupus* Earl of *Chester*, in the County Palatine there; as the *Baron* of *Malpas*, the *Baron* of *Kjnderton* &c.

Barre, *Barra* Cometh of the French (*Barre*) or *Barriere*, that is *Repagulum*, *Obex*, *Vicis*. In the legal sense, denotes a peremptory exception against a Demand or Plein, and is by the Author of the *Terms of the Law* said to be such a Plea, as is sufficient to destroy the Action of the Plaintiff for ever: And is divided into a *Barre* to common Intendment, and a *Barre* special. A *Barre* to common Intendment, is an ordinary or general *Barre*, that ordinarily disablieth the Declaration or Plea of the Plaintiff. A *Barre* special, is that which is more than ordinary, and falleth out in the case in hand, upon some special circumstance of the Fact. *Plow. Com. Colthursts Case, fol. 26. a. b.* As for Example, An Executor being sued for his Testators Debt, Pleadeth, That he had no Goods left in his hands at the day when the Writ was taken out against him; This is a good *Barre* to common Intendment, or (*prima facie*.) But yet the case may so fall out, that more Goods might fall to his hands since that time; which if the Plaintiff can shew by way of Replication, then except he have a more especial Plea or *Barre* to be alledged, he is to be condemned in the Action. See also *Plow. de casu supra citato, fol. 28. and Bro. tit. Barre, num. 101. and Kitchin, fol. 215.*

Barre also in the same signification, is divided into *barre material*, and *barre at large*, *Kitchin, fol. 68.* A *barre material*, as it seemeth, may be otherwise called a *barre special*; As when one in the stop of the Plaintiffs Action, pleadeth some particular matter, as a descent from him that was the undoubted Owner, a Feoffment made by the Ancestor of the Plaintiff, or such like. A *barre at large* is, when the Tenant or Defendant, by way of exception, doth not Traverse the Plaintiffs Title, by Pleading Not Guilty, nor confests or avoid it, but only maketh to himself a Title in his *barre*. As if in an Assise of *Novel Disceisin*, the Tenant Plead a Feoffment of a Stranger unto him, and gives but a colour only to the Plaintiff; or this, there may be an example found, 5 H. 7. fol. 29. *Barre* is also in regard of the effect, di-

vided into *barre perpetual*, and *barre pro tempore*: *Perpetual* is that, which overthroweth the Action for ever. *Barre pro tempore* is that, which is good for the present, and may fail hereafter. See *Brook, tit. Barre, nu. 23.* Where he saith, That to plead *Plene administravit* is good, until it may appear, that more Goods come to the Executors hands afterward; which also holdeth for an Heir, that in an Action of his Ancestors Debt, Pleadeth *Riens per descent*. This word is also used for a material *Barre*, as the place where Serjeants or Counsellors stand to Plead Causes in Court, or Prisoners to answer to their Indictment; from which our Common Lawyers are termed *Barristers*, Anno 24 H. 8. cap. 24.

Barrator or **Barretor**, *Barretator*, (French *Barateur*,) a Deceiver; Signifies a common Wrangler, that setteth men at odds, and is himself never quiet, but at Brawle with one or other. To this effect, you may read, *Lamb. Eiren. P. 342.* who saith also, That *Barattor* may seem to be derived from the Latine *Barator* or *Balatro*, that is, a vile Knave, or Unthrift; and by a Metaphor a spot in a Common-wealth. See the Statute of *Champettry*, 33 Edw. 1. Stat. 2. cap. unico, and *West. 1. cap. 32.* Anno 3 E. 1. Mr. *Skene de Verb. signif. tit. Barratry*, saith, That *Barrators* be Symonists, so call'd of the Italian word *Barrataria*, signifying Corruption or Bribery in a Judge, giving a false Sentence for Money; whom you may read more at large, as also *Horatius Cavalcamus* in his *Traict de Brachio regio, par. 5. nu. 66.* See also *Egidius Bossius in practica criminali titulo de officialibus corrupti. Sc. num. 2. & 6. & Co. lib. 8. fol. 36. 37.*

Barraster or **Barrister**, *Barrasterius*. See *Viter-Barrister*.

Barre-fee, is a Fee of Twenty Pence, that every Prisoner acquitted of Felony payeth to the Gaoler, *Crompt. Just. of Peace, fol. 158. b.* See 21 H. 7. 16. b.

Barrel, Is a Measure of Wine, Oyl, &c. containing the eighth part of a Tun, the fourth of a Pipe, and the second of a Hogshead, that is, thirty one Gallons and an half, 1 R. 3. cap. 13. But this Vessel seemeth not to contain any certain quantity, but differeth according to the Liquor; For a Barrel of Beer containeth Thirty six Gallons, and a Barrel of Ale but Thirty two, Anno 23 H. 8. cap. 4. and by 12 Car. 2. cap. 23. The said Assise of Thirty two Gallons of Wine-Measure, which is about Twenty eight Gallons of Old-Standard, well facked, and containing in every Barrel usually a thousand full Herrings at least, is, and shall be taken for good, true, and lawful Assise of Herring-barrels, An. 13. Eliz. c. 11.

Barriers, Cometh of the French Word (*Barres*) and signifieth with us that which the Frenchmen call (*leu de Barres, i. Palestam*) a Martial Sport or Exercise of Men Armed, and fighting together with short Swords, within certain *Barres* or Lists, whereby they are separated from the Spectators: It is now grown out of use here in England.

Batter, May probably be derived from the French *Barater*, that is, *Circumvenire*. It signifies in our Books Exchange of Wares for Wares, Anno 1 R. 3. Cap. 9. And so the Substantive (*Bartry*) 13 Eliz. cap. 7. The reason may be, because

because they that Chop and Change in this manner do endeavour, for the most part, one to over-reach and circumvent the other.

Barton, Is a-term used in *Devonshire*, and other parts, for the Demesne Lands of a Mannor; some times for the Mannor-Houfe it self; and in some places for Out-Houfes and Fold-Yards. In the Stat. 2 & 3 E. 6. cap. 12. *Barton Lands* and *Demesne Lands* are used as *Synonyma's*. See *Barton*.

Bate Court, Is any Inferiour Court, that is not of Record, as the *Court Baron*, &c. Of this read *Kitchin*, fol. 95. 96. &c.

Bate Fee, Vide *Bate Estate*.

Bate Estate, Is in true French *Bas Estat*. It signifies that Estate which *Bate Tenants* have in their Land. Now *Bate Tenants* be they (according to *Lambard*, in his Explication of Saxon Words, verb. *Paganus*,) which perform to their Lords Services in Villenage. The Author of the *Termes of Laws*, saith, That to hold in *Fee Bate*, is to hold at the Will of the Lord. *Kitchin*, fol. 41. makes *Bate-tenure* and *Frank-tenure*, to be contraries, and puts Copiholders in the number of *Bate Tenants*; whence it may probably be conjectured, That every *Bate Tenant* holdeth at the Will of the Lord, but yet that there is a difference between a *Bate Estate* and Villenage; which *Fitz* in his *Nat. Brev.* fol. 12. seemeth to intermingle. For to hold in Villenage, is to do all that the Lord will command. So that if a Copiholder have but a *Bate Estate*, not holding by doing every Commandment of his Lord, he cannot be said to hold in Villenage. And I will not undertake to determine, whether Copiholders by custome, and continuance of time, have shaken off that extreme Servitude, wherein they were at first, although *Fitz. loco citato* saith, Tenure by Copi hath grown but of late years.

Bateis, *Baselli*, A sort of Coyn, abolished by Henry the Second, Anno 1158. *Holinshed's Chron.* pag. 67.

Batelard, *Bastardus*, By the Stat. 12 R. 2. cap. 6. Is made to signify a Weapon, which Mr. *Speight* in his Exposition upon *Chaucer*, called *Pugionem*, vel *Sicam*.

Bastard, *Bastardus*, From the Brittish *Bastard*, that is, *Notus* or *Spurius*, Is one that is born of any Woman not married; so that his Father is not known by order of Law, and therefore is called *filius Populi*, the Child of the People. Such cannot Inherit Land, as Heir to his Father, nor can any but the Heir of his Body take Land as his Heir, *Lit. Sect.* 401. If a Child be begotten by him that marries the Mother after the Child's birth, yet it is in the judgment of Law a *Bastard*, Stat. 20 H. 3. 9. and 1 H. 6. 3. Co. on *Lit.* 244. If a man take a Wife who is great with Child by another, who was not her Husband, yet the Child, though born but one day after the Marriage, shall be Heir to the Husband. So if one marry a Woman, and never Bed her, but dye before Night, and she have a Child after, yet it seems it shall be accounted his Child. See the *English Lawyer*, 117. If a Man or Woman Marry a second Wife or Husband, the first living, and by that second have Issue, such Issue is a *Bastard*, 39 E. 3. 14. 7 H. 4. 49. 18 E. 4. 26. If a Woman clope with

a stranger, and hath a Child by him, yet if the husband be *infra quatuor Maria*, he is legitimate, and shall inherit, 44 E. 3. 10. 7 H. 4. 10.

Bastardy, (*Bastardia*) Cometh of the French word *Bastard*, and signifies a defect of Birth, objected to one begotten out of Wedlock, *Bract lib.* 5. cap. 19. How *Bastardy* is to be proved, or enquired into, if it be pleaded; See *Rastals Entries*, tit. *Bastardy*, 104. and *Kitchin*, fol. 64. who mentions *Bastardy Special* and *Bastardy general*: *Bastardy general* is a Certificate from the Bishop of the Diocess to the Kings Justices, after just Enquiry made, that the Party enquired of is a *Bastard*, or not a *Bastard*, upon some question of Inheritance. *Bastardy special* is a Suit commenced in the Kings Court, against him that calleth another *Bastard*; so termed, because *Bastardy* is the principal and special Case in Tryal, and no Inheritance contended for. And by this it appeareth, that in both these significations *Bastardy* is rather taken for Examination or Tryal, whether a mans birth be Legitimate or not, than for *Bastardy* it self. See *Bro. titul. Bastardy*, n. 29. and Doctor *Kidleyes Book*, pag. 209. 204.

Baston, Is a French word signifying a Staff or Club, and by the Statutes of our Realm, denotes one of the Warden of the *Fleets* Servants or Officers, that attendeth the Kings Court with a painted Staff, for the taking into Custody such as are committed by the Court, and so it is used, 1 R. 2. 12. 5 Eliz. cap. 23. See *Trayle Baston*.

Debatable Ground, Was the Land lying between *England* and *Scotland*, heretofore, when the Kingdoms were distinct, in question to whom they belonged, 13 H. 3. 6. and 35 H. 8. 6. The word seems as if we should say, *Debatable Ground*, or Land about which there is Debate, according to the Opinion of *Skene*. See *Lamb. Brit. tit. Cumberland*, vol. 1. fol. 140.

Battaille, *Quellum*, Signifies in our Common Law a Trial by Combat. The manner whereof, because it is long, full of Ceremonies, and now totally disused, the better to understand, I refer you to *Glanvile lib.* 2. cap. 3. 4. 5. *Bract lib.* 2. tra. 2. cap. 11. fol. 140. *Britton*, cap. 24. And Sir *Tho. Smith de Rep. Angl.* lib. 2. cap. 7. & lib. 3. cap. 3. See *Comitis*.

Battery, (From the French *Batre*, to strike, or the Saxon *Batte*, a Club;) Is a violent striking or beating any Man; for which, in regard it tends to the breach of the Peace, the Party injured may either indict the other at the Sessions, or have his Action of Trespass of Assault and Battery against him, and recover what the Jury will give him; which Action will lie as well before as after the Indictment. In some Case a Man may justifie the moderate Beating of another, as the Parent his Child, the Master his Servant or Apprentice &c. This Battery the *Civilians* call *Injuria personalem*, quia persona infertur per verbera, &c. *Wesemb. parat. 1. de injur. & fam. libell.*

Batus, A Boat, and *Batellus*, a little Boat. *Concessit etiam idem Hugo Wake*, &c. quod predicti *Abbas*, &c. de *Croyland* haberent tres *Batellus* in *Har-nolt*, &c. *Chart. E. 1. 40 Jul. 14 Regni.* See *Libera Batellus*. Hence we have an old word *Bastowynce*, for such as now we call *Boat-swaines*, vulgarly *Bo-son of a Ship*.

Baubels, (*Baubella*) Is an old Word signifying Jewels, *Ro. Hoveden. part. poster. suor. annal. fol. 449. b.*

Beacon, A kind of Saxon Word betokening a Signal: It is well known, *8 Eliz. Cap. 13. Beaconsage* (*Beconagium*) Money paid towards the Maintenance of a Beacon; and we still use the Word *Beckon*, to give notice unto. See the Stat. *5 H. 4. and Durf. Pat. 28 H. 6. part 2. m. 21. Pro signis Anglice Beacons & Vigiliis.*

Bead, (Saxon *Bead*, a Prayer;) So that to say over ones *Bead*, is to say over ones Prayers: They are used to that purpose in many parts of the World, and are mentioned in *27 H. 8. cap. 26. and 3 Jac. cap. 5.*

Bearding alias **Barding** of Wool. See *Clacke.*

Beaters, Signifies such as bear down or oppress others, and is all one with Maintainers, *4 Ed. 3. cap. 11.*

Beasts of the Forest, Are those that are otherwise called *Beasts of Venery*, and are five; the Hart, the Hind, the Hare, the Bore, and the Wolf: *Antiquitas Britania*, Written before the Conquest, *fol. 43. Holinsh. Description of England, pag. 206. b. 30. Book of St. Albans, fol. 30. Budam, lib. 2. de Philologia, and divers others.*

Beasts of Chase, Also are Five, viz. The Buck, the Doe, the Fox, the Martern, and Roe, *Manwoods Forrest Law, Part 2. Cap. 4. Num. 2.*

Beasts and Fowl of Warren, Are only these, The Hare, the Coney, the Pheasant, and the Partridge, as appears by the Register of Writs, *fol. 95. in brevi de transgressionem, F. N. B. fol. 86. 87. Co. on Lit. 233.*

Beastials. See *Bestials.*

Beaupleaver, (*Pulchre Placitando*.) Is made of two French Words, *Beau*, *Formosus*, *Pulcher*, and *Pleaver*, *Disputare*, *Causam agere*, and signifies in Common-Law, a Writ upon the Statute of *Marlbridge*, *32 H. 3. cap. 11.* Whereby it is provided, That neither in the Circuit of Justices, nor in Counties, Hundreds, or Court-Barons, any Fines shall be taken of any Man for *Fair-Pleading*, that is, for not Pleading fairly or aptly to the purpose; upon which Statute this Writ was ordained, against those that violate the Law herein. See *F. N. B. fol. 270.* whose definition is to this effect: The Writ upon the Statute of *Marlbridge*, for not *Fair Pleading*, lyeth, where the Sheriff, or other Bayliff, in his Court, will take Fine of the Party, Plaintiff or Defendant, for that he Pleadeth not fairly. And it was as well in respect of the vicious Pleadings, as of the Fair Pleadings, by way of amendment, *2. par. Inst. fol. 122.*

Bedel, *Bedellus*, Is derived from the French Word *Bedeau*, which signifies a Messenger or Apparator of a Court, that cites men to appear, and answer. It is also an inferior Officer of a Parish or Liberty, well known in London and the Suburbs. *Manwood in his Forest-Laws, cap. 21.* saith, That a *Beddle* is an Officer or Servant of the Forest, that doth make all manner of Garnishments of the Courts of the Forest; and also all manner of Proclamations, as well within the Courts of the Forest as without; and also to execute all the Process of the Forest: He is

like unto a Bayliff Errant of a Sheriff in his County. *Edgarus, &c. viz. Vicecomitibus, Bedellis, &c. Ne introcant, &c. Ingulphus Hist. Croyl.*

Bedelary, *Bedelaria*, is the same to a *Bedel*, as *Saliva* a *Bayliff* is to a *Bayliff*, *Lit. lib. 3. cap. 5.*

Bederepe, A Saxon Word, signifying a Service which some Tenants were antiently bound to perform, as to Reap their Landlords Corn in Harvest; in imitation of which, some are yet tyed to give one, two, or more days Work, when commanded. *Debent venire in Autumno ad precariam qua vocatur a le Bederepe, Pla. in Craft. Pur. 10 H. 3. Rot. 8.*

Benefice, *Beneficium*, Is generally taken for all Ecclesiastical Livings, be they Dignities, or other. And *Anno 13 R. 2. Stat. 2. Cap. 2. Benefices* are divided into Elective, and of Gift. In the same sense it is used also in the Canon-Law, *Duarenium de Beneficiis, lib. 2. cap. 3.*

Beneficio primo Ecclesiastico habendo, Is a Writ directed from the King to the Chancellor or Lord Keeper, to bestow the Benefice that first shall fall in the Kings Gift, above or under such a value, upon this or that Man, *Reg. Orig. fol. 307. b.*

Benevolence, *Benevolentia*, Is used both in the Chronicles and Statutes of this Realm, for a voluntary gratuity given by the Subjects to the King, *Stowes Annals, Page 701.* By the Statute, *Anno 1 R. 3.* It is called a *New Imposition* and in that respect by him found fault with. But *Stow, Page 791.* saith, The Invention grew first from *Edward the Fourth's* days: You may find it also *Anno 11 H. 7. cap. 10.* to have been yielded to that worthy Prince, in regard of his great expences in Wars and otherwise: It is also mentioned and excepted out of the Pardon, *1 E. 6. cap. 15.* Other Nations call it *Subsidium Charitativum*, given sometimes to Lords of the Fee by their Tenants, sometimes to Bishops by their Clergy. *Mattibem de afflictis defici. 136. Casan. de consuet. Burg. pag. 134. 136. Baldus consilio, 120. vel. 6. pag. 230.* Of this *Menochius* makes mention, *Lib. 2. cent. 2. cap. 178. & 179.* Also by Act of Parliament, *13 Car. 2. cap. 4.* it was given to our present Sovereign, King *Charles the second.*

Berghmayster, From the Dutch *Berg*, a Hill, Is a chief Officer among the *Derbshire Miners*, who also performs the Duty of a Coroner, *Juratores dicunt, quod in principio quando Mineratores veniunt in campum minera quarrentes, inventa minera veniunt ad Balivum qui dicitur Berghmayster, & present ab eo duas Metas, &c. Esc. de Anno 16 E. 1. num. 34. In Turri London. See Berghmayster.*

Berghmoth or **Berghmote**, May be deduced from the Saxon *Berg*, a Hill, and *Gemote*, an Assembly; which is as much as to say, An Assembly, or Court upon a Hill. *Juratores etiam dicunt quod Placita del Berghmoth debent teneri de tribus septimanis in tres septimanas super mineram de Pecco. Esc. 16 E. 1. ut supra.* Hear what Mr. *Manlove* in his ingenious Treatise of the Customs of *Miners*, saith,

(Court,
 3 E. 6. --- *And suit for Ore must be in Berghmote*
 Art. 9. *Thither for Justice, Miners must resort, &c.*
 16 E. 1. c. 2. *And 2 great Courts of Berghmote ought to*
 3 E. 6. 10. *In every year upon the Minery, &c.* (br
To swear Berghmaysters that they faithfully
Perform their Duties on the Minery, &c.

Bernet, *Incendium*, Comes from the Saxon
Burnan, to burn: It is one of those Crimes,
 which by the *Laws of H. 1. cap. 13. Emendari non*
possunt. See Opentheff.

Bery or **Bary**, Signifies a *Habitation*, which
 is still made out in the names of Places, as *St.*
Edmonds-Bury, &c. So we usually say, That in
 a Warren there are *Coney-Buries*, or *Cony-ber-*
ries. Anciently it was taken also for a Sanctua-

Berton, Is that part of a great Country-
 Farm, where the Barns, Stables, and other inferi-
 our Offices stand, and wherein their Cattel are
 fodder'd, and other Country-business managed.
See Claus. 32 E. 1. m. 17.

Berwick, A Word often found in the Book
 of *Doomsday*, signifying a Village, and is the ter-
 mination of many Words, signifying somewhat
 appurtenant to a Mannor: As there is a Village
 near *Kingston upon Thames*, called at this day the
Wicke or *Wecke*; and we commonly say, *Bayl-*
wick, &c. *Spelman* thinks it may be *Manerium*
minus ad majus pertinens, &c.

Besaille, *Proavus*, is borrowed of the French
Byssayeul, (i. *pere de mon pere grand*.) the Fa-
 ther of my Grand-father. In the Common-Law
 it signifies a Writ, that lyeth where the Great
 Grand-father was seised in his Demesne, as of Fee
 of any Lands or Tenements in Fee-simple, the
 day that he dyed; and after his Death, a stranger
 abateth or entreth the same day upon him, and
 keepeth out his Heir, &c. The form and use of
 this Writ is more at large to be read in *F. N. B.*
fol. 221.

Besica, A Spade or Shovel, derived from
 the French *Bescher, fudere*, to Dig. Hence per-
 haps *Una besicata terra inclusa, Mon. Ang.*
p. 2. fol. 642. May signify a piece of Land
 usually turned up with a Shovel or Spade, as Gar-
 diners use to fit their Grounds to sow and plant
 in.

Bestials, Cometh of the French *Bestials*,
 which is *pecus*, Beasts of any sort, *Anno 4 E. 3.*
cap. 3. It is written *Besayle*, and taken to denote
 all kind of Cattel, purvey'd for the Kings Provi-
 sion. It is also mentioned, to signify all kind of
 Cattel, 1 *Jac. 33.* and 12 *Car. 2. cap. 4.*

Bidale, or **Bidsall**, Is the invitation of
 Friends to drink at some poor Mans House, who
 thereby hopes to receive some assistant benevo-
 lence from the Guests for his Relief; still in use
 in the West of *England*, and falsely written by
 some *Bildale*; and mentioned 16 *H. 8. cap. 6.*
 The same is used also in the County-Palatine of
Chester by persons of quality, toward the relief
 of their own or Neighbours poor Tenants.

Bidding of the Beads, Was a charge or
 warning that the Parish Priest gave to his Pa-
 rishioners at certain special times, to say some

particular Prayers, or do other acts of Devotion
 in behalf of some deceased Friends Soul; in imi-
 tation of which, the Ministers of the Church of
England are commanded by the Canons on the
 Sunday precedent, to give notice of the Festivals
 in the following week, that the Parishioners may
 the better observe them; this is mentioned 27 *H.*
8. cap. 26. we may easily find bidding in the Saxon
 word *bibben*, to pray or desire; and *Bead*, a
 Prayer.

Bidape, *Bidripa*. See *Bederepe*.

Biga, Properly a Cart with two Wheels,
 and not as some have offered, a Chariot drawn
 with coupled Horses; these Words prove it suffi-
 ciently, *Et quod cant cum Bigis & carris, &c. su-*
per Tenementum suum, &c. Mon. Ang. fol. 256.
b.

Bigamus, Is any person that hath at several
 times married two or more Wives successively af-
 ter each others death, or a Widow, as appears
 by the Statutes, 18 E. 3. cap. 2. 1 E. 6. cap. 12. 2.
part Co. Inf. fol. 273.

Bigamy, *Bigamia*, Signifies a double Mar-
 riage, being a Compound Greek Word; it is
 used in Common-Law, for an Impediment that
 hindreth a Man to be a Clerk, by reason he
 hath been twice Married, 4 E. 1. 5. which seems
 to be grounded upon the Words of *St. Paul*
to Timothy, Epist. 1. cap. 5. vers. 2. Oportet ergo
Episcopum irreprehensibilem esse & unius uxoris vi-
rum. The Canonists have founded their Do-
 ctrine upon this, That he that hath been twice
 married may not be a Clerk: And him that
 hath married a Widow, they reckon to have
 been twice married. Both which they do not
 only exclude from Holy Orders, but also deny
 them all privilege that belongs to Clerks. But
 the Author of the *New Termes of the Law* saith,
 This Law is abolished by 1 E. 6. 12. and to that
 may be added, 18 *Elix. cap. 7.* which alloweth
 to all men that can read as Clerks, though not
 within Orders, the Benefit of Clergy, even in
 case of Felony, not especially excepted by some
 other Statute. So is *Brook tit. Clergy, plac. 20.*
 to the same purpose.

Bilanciis deferendis, Is a Writ directed
 to a Corporation, for the carrying of Weights
 to such a Haven, there to Weigh the Wools
 that such a Man is licensed to transport, *Reg.*
Orig. fol. 270. a.

Bilawes or rather **By-laws**, That is, Laws
 made *Obiter*, or by the *By*, such as are made
 in Court-Leets or Court-Barons, for the peculiar
 good of those that make them, farther than the
 Common or Statute-Law doth bind. The like
 are generally allowed by Letters Patents of In-
 corporation to any Guild or Fraternity, for the
 better regulation of Trade among themselves, or
 with others, *Co. vol. 6. fol. 63. a. Kitchin, fol. 45.*
79. These in *Scotland* are called *Burlaw* or *Birlaw*.
Skene de verb signif. verb. Burlaw, which saith he,
 are Laws made and determined by consent of
 Neighbours, elected and chosen by common ap-
 probation in the Courts called *Birlaw-Courts*,
 where they take Cognisance of Complaints be-
 tween Neighbour and Neighbour, which men
 so chosen, are Judges and Arbitrators to the effect
 aforesaid, and are called *Birlaw-men*; for *Bator*
 or *Bawfman* in Dutch is *Rusticus*, and so *Birlaw*

is no other but *Leges Rusticorum*. By 14 Car. 2. cap. 5. The Wardens and Assistants for making and regulating *Normich-Stuffs*, are impowred to make *By-Laws*. See 20 Car. 2. cap. 6.

Bilingualis, In general is a man of a double tongue, but in a legal sense, is used for a Jury that passeth between an English-man and an Alien, whereof part ought to be English-men and part strangers, 28 E. 3. cap. 13. This we call vulgarly a *Party-Jury*, but in proper Language, it is a *Jury de medietate lingue*. See *Medietas Lingue*.

Bill, *Billa*, Hath several significations in Law. First, According to *West. Symb. Pag. 1. lib. 2. sect. 146*. It is all one with an Obligation, saving that it is commonly called a *Bill*, when in English; and an Obligation, when in Latine. But now by a *Bill* we ordinarily understand a single Bond, without a Condition; by an Obligation a Bond with a Penalty and Condition, *West. part 2. Symbol. tit. Supplications, sect. 52*. Secondly, A *Bill* is a Declaration in Writing, that expresseth either the wrong the Complainant hath suffered by the Defendant, or else some fault that the Party complained of hath committed against some Law or Statute of the Commonwealth. Such *Bill* is sometimes exhibited to Justices *Itinerant*, at the General Assises, by way of Indictment or Information; but more especially to the Lord Chancellor or Lord Keeper for unconscionable wrongs done: Sometimes it is preferred to others having Jurisdiction, accordingly as the Law, whereupon they are grounded, doth direct. It containeth the Fact complained of, the Damages thereby suffered, and petition of Process against the Defendant for redress.

Billa vera, Is a term of Art in the Common-Law, for the Grand Inquest impanelled and sworn before the Justices in *Eyre*, &c. indorsing a *Bill*, whereby any Crime punishable in that Court is presented unto them with these two words which do signifie thereby, That the Presenter hath furnished his Presentment with probable evidence, and worthy of farther consideration: And thereupon the Party presented, is said to stand Indicted of the Crime, and so bound to make Answer unto it, either by confessing or traversing the Indictment: and if the Crime touch the life of the Person Indicted, it is yet referred to another Inquest, called *The Jury of Life and Death*, who, if they find him guilty, then he stands convicted of the Crime, and is by the Judge to be condemned to death. See *Ignoramus*. See also *Indictment*.

Bill of Store, Is a kind of Licence granted at the Custome-House to Merchants, to carry such Stores and Provisions as are necessary for their Voyage, Custome-free.

Bill of Suffrance, Is a Licence granted at the Custome-house to a Merchant, to suffer him to Trade from one English Port to another, without paying Custome. Anno 14 Car. 2. cap. 11.

Billets of Gold, Are Wedges or Ingots of Gold; the word is derived from the French *Billot*, that is, *Massa Auri*, 27 E. 3. Stat. 2. cap. 14.

Binny Pepper, Anno 1 Jac. cap. 19.

Bisextile, *Bisextiliu*, Vulgarly called *Leap-*

year, because the sixth day before the Calends of *March* is twice reckoned, viz. on the twenty fourth and twenty fifth of *February*; so that the *Bisextile-year* hath one day more than other years, and happens every fourth year; This Interpolation of a day was first invented by *Julius Caesar*, to make the year agree with the course of the Sun. And to prevent all ambiguity that might grow thereupon, it is ordained by the Statute de *Anno Bisextili*, 21 H. 3. That the day increasing in the *Leap-year*, and the day next before shall be accounted but one day, *Britton, fol. 209.* and *Dyer, 17 Eliz. 345.*

Birlaw, See *Bilaw* and *Byrlaw*.

Black maile, Is half English, half French, for in French *Mail* signifyeth a small piece of Money. It denotes in the Counties of *Cumberland, Northumberland, Westmerland*, and the Bishoprick of *Durham*, a certain rate of Money, Corn, Cattel, or other consideration, paid unto some inhabiting near the Borders, being men of Name and Power, allyed with certain known to be great Robbers and Spoile-takers within the said Counties; to the end, to be by them Protected and kept in safety from the danger of such as do usually rob and steal in those parts, Anno 43 Eliz. cap. 13. See *Mayle*. These Robbers are of late years called *Moss-Troopers*, and several Statutes made against them.

Black Rod, Is the Usher belonging to the Garter, so called of the *Black Rod* that he carrieth in his hand: He is Gentleman-Usher to the King, and also Usher of the Parliament. He is called in the *Black Book, fol. 255. Lator virga nigra*, and *Hofiararius*; and elsewhere *Virgi-bajulus*: His duty is *Ad portandum Virgam coram Domino Rege, ad Festum Sancti Georgii infra Castrum de Windfore*. He also keeps the Chapter-House-Door, when a Chapter of the Order is sitting: His habit is the same with the Register of the Order, and Garter, principal King at Arms, which he wears only at the solemn times of that Festival of St. George. He carries, as we said, a *Black Rod*, on whose top is a Lyon, Gold. His Fee is 30 li per Annum, and hath antiently been made by Letters Patent under the Great Seal, and hath a great Power; for to his Custody all Noblemen, called in question for any Crime, are first committed.

Blade, *Bladum*, *Spelman* says, *De segetis tantum intelligitur*; But in the Saxon it signifies more generally, Fruit, Corn, Hemp, Flax, Herbs, &c. Hence *Blader* is taken for an Ingrosser of Corn or Grain: This may appear by a Release of *Will. de Mobun* to his Brother, of all the Mannor of *I. Salvo instauro suo* & *Blado*, excepting his Stock and Corn on the Ground.

Blanks, French *Blanc*, that is *candidus*, white; It signifies a kind of Money Coyned in the parts of *France* by King *Hen. 5.* that were subject to *England*, the value whereof was Eight Pence, *Stowes Annal pag. 386.* these were forbidden to be current within this Realm, 2 H. 6. cap. 9. The reason why they were called *Blanks*, may be, because at the time these were Coyned in *France*, there was also a Piece of Gold Coyned, which was called a *Salut*, of the value of 22 Shillings, from which this Silver was distinguished by the colour.

Blench,

Blench, Is the title of a kind of tenure of Land, as to hold Land in *Blench*, is by Payment of a Sugar loaf, a Bever-Hat, a couple of Capons, and such like; if it be demanded in the name of *Blench*, *id est, nomine alba firma*. See *Alba firma*.

Blockwood. See *Logwood*.

Blomary, Is one of the Forges belonging to an Iron-Mill, through which the Iron passeth before it comes to the Finery. Of this you may read at large, 27 *Eliz. cap. 19*.

Bloated Fish or Herring, Are such as are not thoroughly dried; they are spoken of, 18 *Car. 2. cap. 2*.

Bloudy hand, See *Backberend*. It signifies the Apprehension of a Trespasser in the Forest against Venison, with his hands; or other part bloody, though he be not found chasing or hunting. Of which, see *Manwood, cap. 18. num. 9*.

Bloudwit, Is a compound, from the Saxon *Blod*, *Sanguis* and *Wyte*, an old English Word signifying *Misericordia*. It is often used in ancient Charters, and intends an Amerciament for Blood shed. *Skene de verbor. Signif. writes in Bludweit*, which, says he, is in English as much as *Injuria* or *Misericordia*. It being as the Scottishmen call it, an *Unlaw* for Wrong or Injury, as is the effusion of Blood. For he that hath *Bloudwit* granted him, hath free liberty to take all Amerciaments of Courts for shedding of Blood. *Fleta* saith, *Quod significat quietantiam misericordie pro effusione sanguinis*, lib. 1. cap. 47. *Si aliqui pugnantes, &c. extraxerint sanguinem Prior habebit Bloudwit, i. amerciametum inde in curia sua. Ex Reg. Priorat. de Cokesford*.

Blubber, A kind of Whale-Oyl, so called, before it is thorowly boyled, spoken of 12 *Car. 2. cap. 18*.

Boe bozd, Is; as it were, *Bookboard*, or a hoard for Books, that is, a place where Books, Writings, or Evidences are kept; we may term it in Latine *Librorum bozzum*.

Bocland, Sax. *quasi Bookeland*, a Possession or Inheritance held by Instruments in writing. *Bocland vero ea possidendi transferendiq; lege corcebat, ut nec dari licuit nec vendi, sed heredibus relinquenda erat, in scriptis aliter permitteretur*; Terra inde *Hereditaria nuncupata inter leges Aluredi*, cap. 36. See *Charter-land*, *Copyhold* and *Freehold*, and *Land-boc*. See also *Glossarium in decem scriptores*.

Bodies Politick. See *Corporation*.

Boilary or Bullary of Salt, A Salt-house or Salt-Pit, where Salt is Boiled, Co. on *Lis. fol. 4. b*.

Bolting, Is a term of art used in *Greys-Inn*, whereby they intend private arguing of Cases; the manner of it is this, An *Antient* and two *Baristers* sit as Judges; three Students bring each a Case, out of which the Judges choose one to be argued, which done, the *Students* first begin and argue, and after them the *Baristers*. *Bolting* hath also a more common acception, which Country Housewives say is the Sitting of their Meal or Flour through a Bag, to make it finer; which Bag they call a *Bolter*; and why may not the Law-term be drawn hence, because the *bolting* of Cases is the

through sitting and debating of them.

Bonis attestandis, Is a Writ, for which see *Arrestandis bonis*.

Bona fide, We say; that is done *Bona fide*, that is done really, with a good Faith, without Fraud or Deceit. It is mentioned 12 *Car. 2. cap. 18* and 15 *Car. 2. cap. 5*.

Bonaght or Bonaghty, An Exaction in Ireland, imposed at the Will of the Lord, *Antiq. Hib. pag. 60. Cambden in his Brit. tit. Desmond*, says, That *James Earl of Desmond* imposed upon the people those most grievous Tributes of *Coyne, Livery, Cocherings, Bonaghty, &c.*

Bona notabilia, Are such Goods as a Party dying hath in another Diocess than that wherein he dies, amounting to 3 *li* at least, which, who-so hath, his Will must be proved before the Archbishop of the Province; unless by Composition or Custome other Diocesess are authorized to do it, where *Bona notabilia* are rated at a greater sum. *Book of Canons, 1 Fac. can. 92. 93. Perkins, fol. 489. See Probate of Testaments*.

Bona Patria, An Assise of Country-men, or good Neighbours: Sometimes called *Assisa bona Patria*, when Twelve, or more, are chosen out of the Country to pass upon an Assise; and they are called *Juratores*, because they swear judicially in presence of the Party, *Skene verb. Bona Patria. Vide Assisores*.

Bond, Bondage and Bondmen, The Book of *Doomsday* calls *Bondmen*, *Servi*, and differences them from *Villani, Villeynes*. *Et de toto tenemento quod de ipso tenet in Bondagio, &c. Mon. Ang. 2. par. fol. 609. a*.

Bonis non amovendis, Is a Writ to the Sheriffs of *London*, &c. to charge them, that one condemned by Judgment in a Nation, and prosecuting a Writ of Error; be not suffered to remove his Goods, until the Error be tried, *Reg. Orig. fol. 131. b*.

Booting or Boting Corn, Certain Rent-Corn anciently so called: The Tenants of the Mannor of *H. in Com. B.* heretofore paid *Booting Corn* to the Prior of *Rochester*, *Antiquis. of Purveyances, fol. 418. See Boite*.

Bordarii, B: Tenants that occupy part of the Demesnes, which are called *Bordlands*.

Bordagium, The Tenure of *Bordlands*, which see. *Item ordinatum est, quod omnes qui terras & tenementa tenent per Bordagium, habeant super singulis Bordagiis, quæ per prædictum servitium tenentur, capitaltem quandam mensuram in loco ad hoc consuetam, &c. Ordin. Justic. Itin. in Insula de Jersey*.

Bordarii seu Borduanni, We often meet with these words in *Doomsday*; some think they are Peasants, Husbandmen, or Cottagers, *Discuntur Bordarii vel quod in Inguria (quæ cotagia vocant) habitabant, &c. Spelman. See Bordlands*.

Bord-halfpeny, Is a Duty paid in Fairs and Markets, for setting up Tables, *Bords* and Stalls, for the selling of Wares. In many old Charters, divers are freed from this Payment: Some have corrupted it to *Borthalpeny* and *Brod-halpeny*.

Bordlands, Signifie the Demesnes, which Lords keep in their hands for the Maintenance

of their *Bord* or Table. *Bordlands sunt Dominium ad mensam*, *BraB. lib. 4. traB. 3. cap. 9. num. 5.* which was antiently termed *Bordagium* or *Bordage*. *Saxon Diction. verbo Bord.* See alio *Antiquity of Purveyances*, fol. 49.

Borow or **Borough**, In Latine *Burgus*, *Burgum*; May be derived either from the French *Burg*, i. *pagus*; or from the Saxon *Borboe*, *pignus*, It signifies with us a Corporate-Town, that is not a City; 2 E. 3. cap. 3. namely such as send Burgesses to the Parliament, whose number you may see in *Crompt. Jurisd.* fol. 24. It may probably be conjectured, That antiently it was taken for those Companies consisting of ten Families, which were to be Pledges for one another. See *BraB. lib. 3. traB. 2. cap. 10.* See *Head-borow* and *Borow-head*, and *Lamb. Duty of Constables*, pag. 8. *Lanwood* upon the Provincial (*ut singula de sensibus*) speak to this effect, *Aliqui interpretantur Burgum esse castrum, vel locum ubi sunt crebra castra, vel dicuntur Burgus, ubi sunt per limites habitacula plura constituta*: But afterwards defines it thus, *Burgus dici potest villa quacunque alia a civitate, in qua est Universitas approbata*. Some derive it from the Greek Word *βουρε*, that is, *Turris*. See *Skene de verb. Signif.* *Vershegan* in his *Refutation of decayed Intelligences*, saith, That *Burg* or *Burgh*, whereof we take our *Borough*, metaphorically signifies a Town having a Wall, or some kind of closure about it. All places that in old time had amongst our Ancestors the name of *Borough*, were one way or other fenced or fortified, *Lit. fess.* 164.

Borow-head alias **Head-borough**, *Capitulum Plogius*, made up of *Borboe*, a Pledge, and *Head*, *Lamb. Duty of Constables*, where in the Explication of this and other Saxon Words of that nature, he rehearseth some ancient Customs of England, during the Reign of the Saxons. This *Borow-head* was the chief man of the *Decury*, elected by the rest to speak and do in their behalfs those things that concerned them. See *Borow-bolders*.

Borow-hold alias **Borholders**, *Be quasi Borboe-calders*, and signifieth the same Officers that be called *Borow-heads*, *Lamb. Duty of Constables*. *BraB.* calleth them *Borgby-Aldere*, *lib. 3. traB. 2. cap. 10.*

Borow English, Is a customary descent of Lands or Tenements, whereby, in all places where this Custom holds, Lands and Tenements descend to the youngest Son; or if the Owner of the Land have no Issue, then to the younger Brother; as in *Edmunton*, some part of *Richmond*, and other places, *Kitchin*, fol. 102. And the reason of this Custom (says *Littleton*) is, for that the youngest is presumed in Law to be least able to shift for himself.

Borow Goods Devisable, I find these words in the Statute of *Alton Burnel*, 11 E. 1. cap. unico: And suppose that as before the Statute of 32 & 34 H. 8. no Lands were Divisible at the Common-Law, but in ancient Baronies, so perhaps at the making the Statute of *Alton Burnel*, it was doubtful, whether Goods were devisable but in ancient *Borows*: For it seemeth by the Writ *De rationabili parte bonorum*, that antiently the Goods of a Man were partible between his Wife and Children.

Borthalpeny. See *Bord-halpeny*.

Boscage, *Boscagium*, Is such Sustenance as Wood and Trees yield to Cattel, viz. Mast; it may be derived from the Greek Word *βόσκη*, *Pascere*.

Boscaria, May be either Wood-houses, from *Boscus*; or Ox-houses, from *Bos*. *Ut ipsi possunt domus & Boscaria satis competentia edificare*, *Mon. Ang. 2. pa. fol. 302.*

Boscu, Is an ancient Word used in the Law of England for all manner of Wood: The Italian uses *Bosco* in the same sense, and the French *Bos*. *Boscus* is divided into Wood or Timber, *Haut-bois*, and Coppice or Under-Wood, *Sub-bois*: The High-Wood is properly called *Saltus*, and in *Fleta Marcinum*.

Bosinnus, A certain Rustical Pipe: By Inquisition after the Death of *Lawrence Hastings*, Earl of Pembroke, 22 E. 3. The Mannor of *Aston Cantlow* in *Com. War.* is returned to be held in Capite of the King, by these Words, *Quod quidem Manerium per se tenetur de Domino Rege in Capite per servitium invenienti unum hominem Peditem cum quadam Arcu sine Corda, cum uno Bosinno sine tappa*, &c. *Ex Record. Tur. Lond.*

Bot, Signifieth Compensation, *Lamb. Explicat.* Saxon Words: Thence cometh *Manbote* alias *Monbote*, that is compensation or amends for a Man slain, which was bound to another. In King *Ina's* Laws, set out by Mr. *Lambert*, cap. 96. is declared what Rate was ordained for the expiation of this Offence. Hence also comes our common Phrase, *To give to bot*, that is, *compensationis gratia*. See *Skene de verb. signif. tit. Bot*. See also *Hedge-bote*, *Plowbote*, *House-bote*, *Theft-bote*, &c. in their proper places.

Booteless, *Sine remedio*. *Inter. Plac. Trin.* 12 E. 2. *Ebor.* 48. We retain the Word still in common speech, as it is *bootless* to attempt such a thing that is, it is vain to attempt.

Botha, A Booth or Tent to stand in, in Fairs or Markets. ----- *Et duas Mensuras libras ad Bothas suas Faciendas*, *Mon. Ang. 2. par. Fol. 132.*

Bothua, **Butna**, **Butena**, Seems to be a Park where Cattel are enclosed and fed, *HeBor Boctius*, *lib. 7. cap. 123. num. 35.* And *Aulus Gellius*, *lib. 11. cap. 1.* *Bothena* also signifies a Barony, Lordship, or Sheriffwick. And *Domini Bothena* are Lords of the Barony, Mannor, &c. *Skene de verb. Signif.*

Butler Of the King, *Pincerna Regis*, *Anno* 43 E. 3. cap. 3. Is an Officer that provideth the Kings Wines; who (as *Fleta*, *lib. 2. cap. 21.* saith) may by virtue of his Office out of every Ship laden with Sale-Wines, *unum dolium eligere in pro-na navis ad opus Regis, & aliud in puppi, & pro qualibet Pecia reddere tantum 20 solid.* *Mercatori.* *Si autem plura habere voluerit, bene licebit, dum tamen Pretium fide dignorum iudicio pro Rege apponatur.*

Bottomry or **Botomary**, *Anno* 16 Car. 2. cap. 6. Is, when the Master of a Ship borrows Money upon the Keel or Bottom of his Ship, and binds the Ship it self, That if the Money be not paid at the day limited, the Creditor shall have the Ship. *Ceo est Bottomage quand argent est borow sur le Keil del neif et le neif oblige al payment de ceo*, &c. *Latches Rep.* fol. 252. *Scarboroughs Cafe.* Though Others.

Others say, when *A. B.* lends a Merchant Money, and is to be paid a greater Sum at the return of the Ship, standing to the hazard of the Voyage, though he receive greater Interest than six per cent. it is not Usury, but *Bottomry*.

Bovata terra, An Oxgate of Land is as much as an Ox can till. *Obo bovata terra faciunt unam carucatam, obo carucata faciunt unum feodum militis: 18 acra terra faciunt Bovatum terra, M. S. cum notis in Stat. Vide Oxgange.*

Bouche of Court, Or according to the *Vulgar Budge of Court*, is a certain quantity of provision allowed there to a servant. For so is the French *Avoir Bouche a Court*, to have an allowance at Court. This anciently extended as well to Noblemens Houses, who were Subjects, as to the Kings Court; as may appear by this Decd, of which we will repeat only what is material to our purpose.

Cest Endenture fait parentre luy Nobles hommes Monsieur Tho. Beauchamp, Counte de Warwick, d'une part, & Monsieur Johan Ruffel de Strengesham Chevalier de autre part, tesmoigne que le dis Johan est, &c. Et avers pur la pees, &c. Bouche au Court pur luy mesme, &c. Done a nostre Chastell de Warwick le 29 jour del mois de March l'an du reigne le Roy Richard le Second, pur le Conquest, fisme.

Boveria, An Ox-house or Ox-stall, *Loca ubi stabulantur Boves*; according to *Gloss*, in 10 *Scriptores*. And *Mon. Ang.* 2 par. fol. 210. hath these Words---*Ad faciendum ibi Boverias suas & alias domos usibus suis necessarios.*

Bound or Boundary, *Bunda*, For the derivation, see *Co. 4. Inst. fol. 318.* how it is used, we may see 8 *E. 3. Itin. Pick. fol. 6. Secundum metas, maras, bundas & Marchias Foresta.*

Bow-bearer, According to *Cramp. Jur. fol. 201.* Is an under Officer of the Forest, sworn to the true performance of his Office, in these words, *I will true Man be to the Master Forester of this Forest, and to his Lieutenant; and in the absence of them I shall truly oversee, and true Inquisition make as well of sworn Men as unsworn in every Bailiwick, bush in the North Bail and South Bail of this Forest; and of all manner of Trespasses done either to Vert or Venison, I shall truly endeavour my self to attack, or cause them to be attacked in the next Court of attachment, there to be presented, without any concealment bad to my knowledge.* So help me God.

Bozones. See *Busines*.

Bratton, Was a famous Lawyer of this Land, renowned for his Knowledge both in the Common and Civil Laws, as appeareth by his Books every where extant. He lived in the days of Henry the Third, *Stamf. prar. fol. 5. b.* And, as some say, was Lord chief Justice of England.

Brandy, A kind of Strong-water, made chiefly in France of the Lees of Wine; mentioned in the *Act 30 Car. 2. cap. 1.* Upon an Argument in the Exchequer, Anno 1668. It was Resolved, That Brandy was a Spirit. But 25. Novemb. 1669. by a Grand Committee of the whole House of Commons, it was voted to be a Strong-Water, and not a Spirit.

Brasium, Seems to signifie Malt, because in the ancient Statutes *Brasiator* is taken for a Brewer, and still for a Maltster, 18 *E. 2.* It was resolved, That *Venditio Brasii non est venditio vidualium, nec debet puniri sicut venditio panis, vini & cervisie & hujusmodi contra formam statuti.*

Breach Carnium, By *Breach carniun*, Thomas Crew, Matter of the Hospital of St. John Baptist, without the North-Gate at Chester, claims, *Quod omnes Tenentes sui infra eorum libertates residentes sint quieti de venditione carniun.* Pla. in *Itin.* apud Cest. 14 *H. 7.*

Bread of Treat or Trite, *Panis Tritici*, Is one of those sorts of Bread mentioned in the Stat. of *Assise of Bread and Ale*, 51 *H. 3. Stat. 1.* where we may read of *Wassel Bread*, *Cockes Bread*, and *Bread of Treat*, which may answer to three sorts now in use with us, called *White*, *Wheat*, and *Household Bread*. See *Cockes*.

Brede, Signifieth Broad; *Brasum* useth this Word, lib. 3. *traff. 2. cap. 15. nu. 7.* proverbially thus, *Too large and too brede*; that is, too long and too broad.

Brehon, The Irishry call their Judges *Brehones*, and consequently the Irish Law is termed *Brehon Law*. See 4 *Inst. fol. 358.*

Bretople or Bretois, *Henricus de Pennebrugge dedit omnibus liberis, &c. omnes libertates & liberas consuetudines secundum Legem de Bretoyse, &c.* where secundum *Legem de Bretois*, must needs signifie the Law of the Marches, then in practise among the *Britains*; because *Pennebrugge* or *Pembroke* is in *Heresfordshire*, a Town bordering on *Wales*.

Breve, Which haply may be so called from the brevity of it, is any Writ directed either to the Chancellor, Judges, Sheriffs, or other Officers, whose variety and forms you may see in the *Register per totum*. The Word is used in the Civil Law according to several senses. See *Skene de verbor. Signif. verb. Breve*. And *Bratton*, lib. 3. *traff. 5. cap. 17. num. 2.* Breve quia breviter & paucis verbis intentionem proferentis exponit, &c.

Brevibus & Rotulis liberandis, Is a Writ or Mandat to a Sheriff, to deliver unto the new Sheriff, chosen in his room, the County, with the appurtenances, *una cum Rotulis, brevibus*, and all other things belonging to that Office, *Reg. Orig. fol. 295. a.*

Bribery, Is a high Offence, viz. when any Man in judicial place, or any great Officer, takes any Fee, Pension, Gift, or Reward, for doing his Office, of any person, save the King only, *Fortescue, cap. 51. and 3 Inst. fol. 145.*

Bribors, Cometh of the French *Bribew*, id est *Mendicus*: It seemeth in a legal signification one that pilfereth other mens Goods, Anno 28 *E. 2. Stat. 1. cap. unico.*

Briga, French *Brigue*, that is, strife or contention. *Es posuit terram illam in Brigam, &c.* he made strife about the Land, *Ebor. Hist. 18 E. 3. Rot. 28.*

Brigandine, *Lorica*, Is a Coat of Mail; this Word is used 4 *E. 3. P. & M. cap. 2.* Some confound it with *Habergeon*, and others with *Brigantine*, which is a far different thing, being a swift sailing Vessel used at Sea, being long, but low built.

Brigbote,

Brigbote or **Brugbote**, *Est quietum esse de auxilio dando ad reficiendum Pontes.* *Fleta, lib. 1. cap. 47.* It is compounded of *Brig*, a Bridge; and *Bote*, a compensation or yielding of amends. See *Bote* and *Bruckbote*. *Seldens Titles of Honor, fol. 622.*

Britton, Was a famous Lawyer, that lived in the days of King *Edward the First*, at whose Command, and by whose Authority, he writ a learned Book of the Law of this Realm; The tenor whereof runneth in the Kings Name, as if it had been Penned by himself, answerably to the Institutions which *Justinian* assumeth to himself, though composed by others, *Stamf. prar. fol. 6. & 21.* Sir *Edward Coke* saith, "That this *Britton* writ his Book in the Fiftieth year of *Edward the First*, *Lib. 4. fol. 126. a. & lib. 6. fol. 67. a.* Mr. *Guin* in the Preface to his *Reading*, mentioneth, That this *John Britton* was Bishop of *Hereford*.

Broage, Is commonly taken for the wages or Hire of a Broker. In *12 R. 2. cap. 2.* it is taken for the means used by a spokesman. *Anno 1 Jac. cap. 21.* It is written *Brokerage*. See also *11 H. 4. num. 28.* not printed.

Brochia, A great Can or Pitcher, *Bracton, lib. 2. traft. 1. cap. 6* hath these Words, *Si quis teneat per servitium inveniendi domino Regi, certis locis & temporibus, unum hominem & unum equum & saccum cum Brochia, &c.* By which it seems that he intends *Saccus* to carry dry, and *Brochia* liquid things. See *Saccus*.

Brodehalpeny, In some Copies *Broadhalpeny*, and in others *Bordhalpeny*. It signifies to be quit of a certain Custome exacted for setting up of Tables or Boards in Fairs or Markets: and those that were freed by the Kings Charter of this Custome, had this Word put in their Letters Patents; by reason whereof at this day, the freedom it self, for brevity of speech, is called *Broadhalpeny*. It seems to be derived of three Saxon Words, *Bret* or *Bred*, that is, a Board: and *Halve*, that is in the behalf of, as we say in Latine (*cujus rei gratia*,) and *Penning*, a Toll, which in all makes a Toll in behalf of or for a Board.

Brooggers. See *Brokers*.

Broke, Commonly called Sir *Robert Broke*, was a great Lawyer, and Lord Chief Justice in Queen *Maries* time, *Crompt. Just. of Peace, fol. 22. b.* He made an Abridgment of the whole Law, from him Intituled *Brokes Abridgment*.

Broker, *Brocarius*, Seemeth to come of the French Word *Broieur*, that is, *Tritor*, a Grinder or *B-caker* into small pieces; because he that is of that Trade, to deal in matters of Money and Merchandise between Englishmen and Strangers, draws the Bargain into particulars, not forgetting to grind out something to his own Profit. These Men be called *Brooggers*, *10 R. 2. cap. 10.* In *Scotland* they be called *Broccarii*, that is, according to *Skene de Signif. verbor. Mediators* or *Intercessors* in any Transaction, Paction or Contract, as in Buying, Selling, or Contracts of Marriage. *Brooggers* of Corn are used in a Proclamation of Queen *Eliz.* for *Badgers*, *Bakers Chron.* in her Reign. He that will know what these *Brokers* were wont and ought to be, let him read the Statute *1 Jac. cap. 21.* These, in the Civil-Law, are termed *Proxineti*, as also of some *Licitatores & media-*

tores, tit. de Proxinet. in Digestis. There is another sort of *Brokers*, commonly called *Pawn-brokers*, who commonly have a shop, and let out Money to Necessitous People upon Pawns, not without Extortion: These we may call more properly *Friperers*, and are neither of that Antiquity or Credit as the other; nor does the Statute allow them to be *Brokers*, though they are vulgarly so called.

Broderers, This may take his derivation from the French *Brodeur*, and that of *Bordur, finbria*, the Edge or Hemme of a Garment, which we yet call *Border*, and that because it is usually distinguished from the rest by some conceited or costly Work: He that worketh it, is known among us by the name of an *Embroiderer*.

Brothel-houses, King *Hen. 8.* by Proclamation 30 March, 37 year of his Reign, suppressed all the Stews or *Brothel-houses* which long had continued on the Bankside in *Southwark*, *3 Inst. fol. 205. and Rot. Parl. 14 R. 2. nu. 32.*

Bruckbote, Is compounded of two German Words, (*Kruck, Pons* a Bridge,) and *bote, compensatio, Reward*; It signifieth with us a Tribute or Duty, toward the mending or re-edifying of Bridges, whereof many are freed by the Kings Charter; and thereupon the Word is used for the very liberty or exemption from this Tribute. See *Pontage* and *Brig-bote*.

Buere, We call that which the Latines name *Erica*, and signifies *Heab*: *Bruaria 2. leucarum longitudine & latitudine, Doomday. Hac autem appellatione forenses vocant steriles campos licet Ericam in edant, Spelm.*

Buckfall, By *19 H. 7. cap. 11.* seems to be a Deer-hay, Toyle, or large Net to catch Deer, which by that Statute none may keep, but he that hath a Park of his own, under the Penalty of 40 li. What it is to be quit of *Buckfalls*, see *4 Inst. fol. 306.*

Buckwheat, Is mentioned *15 Car. 2. cap. 5.* and in truth the same with French Wheat, and well known in many Countries among us of late years.

Budge of Court. See *Bouch de Court*.

Buggery, According to *Co. Rep. 12. pag. 36.* Comes from the Italian *Buggerare*. It hath been defined to be *Carnalis copula contra naturam & hac vel per confusionem specierum, sc. a Man or Woman with a brute Beast, vel Sexuum, a Man with a Man, or a Woman with a Woman, see Levit. 18. 22, 23.* This Offence committed either with Man or Beast is Felony without Benefit of Clergy, being a Sin against God, Nature, and the Law, *25 H. 8. revived, and 3 Eliz. 17.* It was brought into England by the *Lombards*, as appears *Rot. Parl. 50 E. 3. num. 58.* See *F. N. B. 269. and Dalton.* In ancient times such Offenders were to be burned by the Common-Law. This most detestable Sin was most justly excepted out of the Act of General Pardon, *12 Car. 2. cap. 8.* made after his Majesties Happy Restoration.

Bull, Seemeth to be derived from the Greek *βουδ, consilium*, as *Polidore Virgil* saith, *De invent. rer. lib. 8. cap. 2.* It is an Instrument so called, granted by the Bishop of *Rome*, and sealed with a Seal of Lead, containing in it his Decrees, Commandments, or other Acts, according to the nature

nature of the thing for which it is granted : And these Instruments have been heretofore used, and of force in this land ; but by the Statute of 28 H. 8. cap. 16. It was Enacted, That all Bulls, Brieis, Faculties and Dispensations, of whatsoever name or nature, had or obtained from the Bishop of Rome, should be altogether void, see *Rast.* 328. The word is often used in other Statutes, as 1 & 2 P. & M. cap. 8. 13 Eliz. cap. 2. *Mat. Paris*, Anno 1237. describes its Seal thus, *In Bulla Domini Papa stat imago Pauli a dextris crucis in medio Bullæ figurata & Petri a sinistris*. But now, as we said, they are difused among us, and therefore need no further Description.

Bullenger, The Commons Petition, that certain Commissions issued to Cities, for the preparing Boats and *Bullengers* may be repealed, the Parliament not having consented thereto, *Rot. Parl.* 2 H. 4. num. 22.

Bullion, Cometh of the French *Billen*, the Ore or Metal whereof Gold is made : It signifies with us Gold or Silver in Mass or Billet, 9 E. 3. Stat. 2. cap. 2. And sometime the Kings Exchange, or place, whither such Gold in the lump is brought to be tried or exchanged, Anno 27 E. 3. Stat. 2. cap. 14. 4 H. 4. 10. See *Skene de verbor. Signif. verbo*. Bullion. *Gervase of Tilbury* says, (writing of the Salt-springs in *Worcestershire*) That of old they called a certain quantity of Salt *Bullion*.

Bultell, Is the branny remainder of Meal that hath been dressed. And the Bag wherein it is dressed, is called a *Bulter*, or rather a *Boulter*; the word is mentioned in the Statute, entituled, *Affisa panis & cervisia*, 51 H. 3. Hence *bulted* or *boulter* Bread.

Bunda. See *Bounds*.

Burcheta, A kind of Gun, mentioned in the *Forest Records*.

Burghete, Compounded of *Burg*, *castellum*, and *Bote*, *compensatio*, signifies a Tribute or Contribution toward the building or repairing of Castles or Walls of Defence, or toward the edifying a Burrough or City ; from this divers had exemption by the ancient Charters of the Saxon Kings, whereupon it is usually taken for the exemption or liberty it self, *Rast.* Exposition of words. *Fleta* says, *Significat quietantiam reparationis murorum Civitatis vel Burgi*, lib. 1. cap. 47.

Burg-English. See *Borow-English*.

Burgage, *Burgagium*, Is a Tenure proper to Cities, *Borows* and Towns, whereby the *Burgers*, Citizens or Townsmen, hold their Lands or Tenements of the King, or other Lord, for a certain yearly Rent. *Old Tenures*. It is a kind of Socage, *Swinburne*, part 3. sect. 3. num. 6. *Habetur inter ignobiles tenuras qui ad militiam non pertinet*, 37 H. 8. 20. Anciently some called a Dwelling-house in a Borow-Town, a *Burgage*.

Burghbrech or **Borgbrech**, *Angli omnes decemvirali olim fide-jussione pacem regiam stipulati sunt, quod autem in hanc commissum est*, *Burghbrech* dicitur, &c. *Vide* Leg. Canuti, cap. 55. *Burghbrech est Læsis libertatis aut sepi*, *Polychron*, lib. 1. cap. 50.

Burgherithe, I suppose it should be *Eurgberiche*, that is, *Violatio pacis in villa*. The word

is used in *Doomsday*, and so expounded by Mr. *Agar* of the *Exchequer*.

Burghmore, A Court of a Borow or City, *Et habeatur in annis Burges motus*, &c. & *interfit Episcopus & Aldermanus*, & *decant ibi Dei verbum & saculi*, Leg. Canut. M. S. cap. 44. Hence in the City of London they still have their *Wardmote*, &c.

Burgesles, *Burgeses*, Are properly the Inhabitants of a Borow or Town driving a Trade there ; yet we usually apply it to the Magistrates : And particularly we call those *Burgeses* who serve in Parliament for any such Borow or Corporation. See *Glanville*, lib. 7. cap. 9. In Germany and other Countries they confound *Burgesse* and Citizen, but we distinguish them, as appears by the Stat. 5. R. 2. cap. 4. where the several Degrees are thus enumerated, Count, Baron, Banneret, Chevalier de Countee, Citizen de Citee, *Burgesse de Burgh*. See the Statute of *Merton*, cap. 7. and *Co. on Lit.* fol. 80.

Burglary, *Burglaria*, Is compounded of two French words, *Bourg*, *pagus*, & *Larcin*, *furtum*, or *Laron*, *fur*, *Co. lib.* 4. fol. 39. It is in the legal fence defined to be, a felonious entering into another Mans dwelling wherein some person is, or into a Church in the night-time, to the end, to commit some Felony, as to Kill some Man, or to steal somewhat thence, or do some other felonious Act, albeit he execute not the same, *Westm. Symb. part.* 2. tit. Indictments, sect. 56. *Burglary* in the natural signification, is nothing but the robbing of a House ; but as it is *vox ar.ii*, the Lawyers restrain it to robbing a House by night, or breaking in with an intent to rob or do some other Felony. The like Offence committed by day, they call *House robbing*, by a peculiar name. How many ways *Burglary* may be committed, see *Crompt. Just. of Peace*, fol. 28, 29, 30. and 3. par. *Inst.* fol. 63. The Offenders shall not have benefit of Clergy, 18 Eliz. 7.

Burghware, A Citizen or *Burges*, *Quasi vir Burgi*, it is used in the Charter of *William the Conqueror* to the *Londoners*, *Wilhelmus Rex salutis Williclmum Episcopum & Goffredum Portgeresum & omnem Burghware infra London*, &c.

Burlimen. See *Sucking*.

Bursa, A Purse, -- *Reddendo inde ad Bursam Abbatu*, &c. *Ex lib. Cart. Priorat. Leom.*

Burle, A word used in *Doomsday*, of which Mr. *Agar* thus ; It may be this word is written for *Bury*, which sometimes I read in this Book, and *Bure* is that which the Dutchmen call a *Bore*, *Colonus*, a Peasant.

Burca or **Bulcus**, Underwood or Brushwood. See *Boscur*.

Bufones Comitatus, *Justiciarii vocati ad se quatuor vel sex vel pluribus de Majoribus comitatibus, qui dicuntur Bufones comitatus & ad quorum nutum dependent vota aliorum*, *Bract.* lib. 3. tract. 2. cap. 1. num. 1. sed *quare*.

Butt, As a Butt of *Malmsey*, containing at least 126 Gallons, Anno 1 R. 3. cap. 13. It signifies also the place where Archers are wont with their Bows and Arrows to shoot at a Mark, which we at this day call *Shooting at the Butts*.

Butlerage of Wines, Signifies that Imposition of Ale Wine brought into the Land,

which the Kings Butler, by vertue of his Office, may take every Ship, 1 H. 8. cap. 5. For which, see more in *Botyler of the King*, the Statute 12 Car. 2. cap. 24. for taking away Purveyances extends not to this ancient Duty. See *Caliborps Rep. Of Special Cases*, pag. 23. and 4. Inf. fol. 30.

Butsecarle, **Butscarle**, **Butsecarle**, or **Botsecarle**, The same with *Boaswaine* or *Marrner*, Seld. Mar. Claus. 184.

Buzones Judiciozum. See *Bufones comitatus*.

Bydalle, 26 H. 8. cap. 6. See *Bidale*.

Bylaw or **Burlaw**. See *Bylaw*, *Skene de Signif. verb.* pag. 33. ----- **Bye**, *An Habitation*, *Doomsday*

C.

Litera C. apud veteres nota fuit condemnationis, unde proverbium inter Græcos τὸ χρεὶν ἰδλῶν εἶναι τὸ Κ.

Cablisth, **Cablicia**, Among the Writers of the *Forest Laws*, significth *Brushwood*, *Crompt. Jurisd.* fol. 165. *Manwoods Forest Laws*, cap. 25. num. 3. pag. 541. calls it *Browewood*. See *limer. Lanc.* 10 E. 3. fol. 172. *limer. Pick.* But Sir Henry Spelman thinks it more properly signifies *Windsain-wood*, because of old written *Cadibulum*, from *Cadere*.

Caballa, Belonging to a Horse, from the Latine word *Cabalus*: *Doomsday*, Mr. *Agar*.

Cabo de bona Esperanza. See *cape de bona Esperanza*.

Cade, Of Herrings is 500; of Sprats 1000. *Book of Rates*, fol. 45.

Calamus, Is a Cane, Reed, or Quill, the divers kinds whereof you have in *Gerards Herbal*, lib. 1. cap. 24. This is comprised among Merchandise, and Drugs to be garbled, by 1 Jac. cap. 19.

Calendring of Woxters, Spoken of 5 H. 8. cap. 4. and 35 H. 8. cap. 5. It signifies to Smooth, Trim, and give them a Gloss; and is a Trade used both in London and Norwich.

Calangium, Challenge, Claim, or Dispute: *Sciatis*, &c. quod ego Godefridus, &c. dedi, &c. sine aliqua reclamatione seu calangio, &c. *Boscum qui fuit in calangio inter ipsum & Walterum*, Mon. Ang. 2. par. fol. 252. b.

Calcreum & **Calcreata**, A Cawsey or Cawseway; perhaps so called *quia pedibus calcatur*.

Calends, *Calenda*, Was among the Romans the first day of every Month, to which if we add *Pridie*, it is the last day of every Month, as *Pridie Calend. septem.* is the last of *August*; if any number be set before it, as *Decimo, Nono, Octavo*, &c. *calend. Sept.* is the 22, 23, 24. of *Aug.* In *March, May, July* and *October*, the *Calends* begin at the sixteenth day, in other Months at the fourteenth; and they must ever bear the name of the Month following, and be numbered backwards from the first day of the said following Months.

See more in *Hoptons Concordance*, pag. 69. See also *Ides* and *Nones*. *DeBum de Kynelworth* is dated the day before the *Calends of November*, 1256. In the Dates of Deeds, the day of the Month by *Nones, Ides* and *Calends*, is sufficient, 2. Inf. fol. 675.

Campe-fight. See *Champion*, and 3. Inf. fol. 221.

Candlemas-day, The Feast of the Purification of the Blessed Virgin *Mary*, February the Second, and instituted in the Memory and Honour of the Purification of the said Virgin, being the fortieth day after her happy Child-birth, according to the Law of *Moses*, *Levit.* 12. 6. It is nominated *Candlemas*, because, before *Masi*, that day is said to be consecrated, and set apart for sacred use, *Candles* for the whole year, and made a Procession with some of the said hallowed *Candles*, in Memory of the Divine Light, wherewith Christ enlightened the Church, at his presentation in the Temple, when by old *Simion* entitled, *A Light to lighten the Gentiles*, as it is in the Gospel of St. *Luke*, cap. 2. vers. 32. This is no day in Court, for the Judges sit not, and is the Grand Day in that Term of all the Inns of Court.

Cantel, Seems to signifie the same with that we now call *Lump*, as to buy by Measure, or by the *Lump*. See *Pollon*, *temp.* H. 3. E. 1. or E. 2. cap. 4. & 9. It signifies also a piece of any thing, as a *Cantel* of Bread, Cheese, and the like.

Cantrey, Is as much in *Wales* as an Hundred in *England*; for *Canire* in the Brittain-tongue significth *centum*, the word is used, 28 H. 8. 3.

Capacity, *Capacitas*, An ability or fitness to receive: In Law it signifies, when a Man, or Body Politick, is able to give or take Lands, or other things, or to sue Actions. As an Alien born, hath a sufficient capacity to sue in any personal Action, but in a real Action it is a good Plea to say, *He is an Alien born*; and pray, *If he shall be answered*, *Dyer*, fol. 3. pla. 8. If a Man enfeoff an Alien and another Man, to the use of themselves, or, &c. it seems that the King shall have the moiety of the Land for ever, by reason of the incapacity of the Alien, *Dyer*, fol. 283. pla. 31. By the Common-Law, no Man hath capacity to take Tythes, but Spiritual Persons, and the King, who is a Person mixt; our Law allowing him two capacities, a Natural and a Politick. But a Layman, who is not capable of taking Tythes, was yet capable to discharge Tythes in the Common-Law in his own Land, as well as a Spiritual Person. See *Co. lib.* 2. fol. 44.

Cape de bona Esperanza, Or the Cape of Good Hope, a Promontory that lies in *Africa*, within the Tropick of *Capricorne*, on the edge of *Ethiopia* inferior, and first discover'd by the Portuguese, under the Command of *Bartholomew Dyas*. See *Speeds Map of Asia*, in his *Theatr. Brit.* It is mentioned in the Statute, 12 Car. 2. cap. 18.

Cape, Is a Writ Judicial, touching plea of Land or Tenements, so termed (as most Writs be) of that word in it self, which beareth the chiefest end and intention thereof. And this is divided into *Cape Magnum* & *cape parvum*, both which (as is before said in *Attachments*) take hold of things immovable, and seem to differ between

themselves in these Points; First, Because *Cape magnum*, or the *Grand Cape*, lieth before appearance, and *Cape parvum* afterwards. Secondly, The *Cape magnum* summoneth the Tenant to answer to the Default, and over to the Demandant. *Cape parvum* summoneth the Tenant to answer to the Default only, and therefore is called *Cape parvum*, or in the French English, *Petit Cape*, Old Nat. Brev. fol. 161. 162. Yet Ingham saith, That it is called *Petit Cape*, not because it is of small force, but that it consisteth of few words; *Cape magnum* in the *Old Nat. Brev.* is thus defined, This is a Judicial Writ, and lieth where a man hath brought a *Præcipe quod reddat* of a thing that toucheth Plea of Land, and the Tenant make default at the day to him given in the Writ original, then this Writ shall go for the King, to take the Land into the Kings hands, and if he come not at the day given him by the *Grand Cape*, he hath lost his Land, &c. A President and Form of this Writ, you may see in the *Register Judicial*, fol. 2. b. It seemeth after a sort to contain in it the effect (*missio in possessionem & primo & secundo decreto*) among the *Civilians*: For as the first Decree seisseth the thing, and the second giveth it from him that the second time defaulteth in his appearance. So this *Cape* both seisseth the Land, and also assigneth to the Party a farther day of appearance, at which, if he come not in, the Land is forfeited; yet is there difference between these two Courses of the Civil and Canon-Law. First, For that *missio in possessionem* toucheth both movable and immovable Goods, whereas the *Cape* is extended only to immovable. Secondly, That the Party being satisfied of his Demand, the *remanset* is restored to him that defaulted; but by the *Cape*, all is seised without Restitution. Thirdly, *Missio in poss.* is to the use of the Party agent, the *Cape* is to the use of the King: Of this Writ, and the explication of the true force and effect thereof, Read *Brañon*, lib. 5. trañ. 3. ca. 1. num. 4, 5, 6. See *Cape ad valentiam*.

Cape parvum, In the *Old Nat. Brev.* fol. 162. is thus defined, This Writ lieth in case where the Tenant is summoned in Plea of Land, and cometh at the Summons, and his appearance is of Record; and after he maketh default at the day that is given to him, then shall go this Writ for the King, &c. Of this likewise you may see the Form in the *Register Judicial*, fol. 2. Of both these Writs, Read *Fleta*, lib. 6. ca. 44. s. 8. *Magnum & seq.*

Cape ad valentiam, Is a Species of *Cape magnum*, so called of the end whereunto it tendeth. In the *Old Nat. Brev.* fol. 161. 162. it is thus described, This Writ lieth, where any impleaded of certain Lands, and I vouch to warrant another, against whom the Summons *ad Warrantizandum* hath been awarded, and the Sheriff cometh not at the day given, then if the Demandant recover against me, I shall have this Writ against the Vouchee, and shall recover so much in value of the Land of the Vouchee, if he have so much; and if he have not so much, then I shall have execution of such Lands and Tenements as descend unto him in Fee-simple; or if he purchase afterward, I shall have against him a resumption; and if he can say nothing, I shall recover the value. Here note, That this Writ lieth before Appearance.

Capias, Is a Writ of two sorts, one before Judgment, called *Capias ad respondendum*, in an Action personal, where the Sheriff upon the first Writ of Distress returns, *Nihil habet in balliva nostra*, and the other is a Writ of Execution after Judgment, being of divers kinds, viz. *Capias ad satisfaciendum*, *Capias pro fine*, *Capias utlagatum*, *Capias utlagatum & inquiras de bonis & catallis*, &c.

Capias ad satisfaciendum, Is a Writ of Execution after Judgment, lying where a man recovers in an Action personal, as Debt or Damages, or *detinue* in the Kings Court; and he against whom the Debt is recovered, and hath no Lands nor Tenements, nor sufficient Goods, whereof the Debt may be levied. For in this Case, he that recovereth, shall have this Writ to the Sheriff, commanding him, that he take the Body of him, against whom the Debt is recovered, and he shall be put in Prison, until satisfaction made.

Capias pro fine, Is, where one being by Judgment fined unto the King, upon some Offence committed against a Statute, doth not discharge it according to the Judgment; for by this is his Body taken and committed to Prison, until he content the King for his Fine, *Coke*, lib. 3. fol. 12. a.

Capias utlagatum, Is a Writ of Execution, which lieth against him that is Outlawed upon any Suit, by which the Sheriff, upon the Receipt thereof, apprehendeth the Party Outlawed, for not appearing upon the *Exigent*, and keepeth him in safe Custody till the return of the Writ, and then bringeth him into Court, there farther to be ordered for his Contempt.

Capias utlagatum & inquiras de bonis & catallis, Is a Writ all one with the former, but it gives a farther power to the Sheriff, besides the apprehension of his Body, to enquire of his Goods and Chattels. The form of all these Writs, see the *Old Nat. Brev.* fol. 154. and see *Termes de la Ley*, verbo *Processu*. Lastly, You may find great variety of this kind in the *Register Judicial*, verbo *Capias*.

Capias in Withernam de averiis, Is a Writ lying for Cattel in *Withernam*, *Reg. Orig.* fol. 82. 83. See *Withernam*.

Capias in Withernamium de homine, Is a Writ that lieth for a Servant in *Withernam*, *Regist. Orig.* fol. 79. 80. See *Withernam*.

Capias conductos ad proficiendum, Is a Writ that lieth for the taking up such as having received Preft-Money to serve the King, slink away, and come not in at the time: This is an Original Writ directed to the *Sergeant at Arms*, to Arrest and bring them in, having included a Clause of assistance, *Reg. Orig.* fol. 191. 4. *Inq.* fol. 121.

Capite, From *Caput*, the Head; and so *Tenure in Capite*, is to hold of the King, the Head of the Common-Wealth. It is a Tenure that holds immediately of the King, as of his Crown, be it by Knight-service or Socage, and not of any Honor, Castle or Mannor; and for this it is called a *Tenure*, which holds merely of the King; For as the Crown is a Corporation, a Seignory in

in grofs; fo the King, who poffeffes the Crown, is in the Eye of the Law, perpetually King; never in his Minority, *F. N. B. fol. 5.* Yet a man may hold of the King, and not in *Capite*, that is, not immediately of the Crown in grofs, but by means of fome Honor, Cattle, or Manner belonging to the Crown: Of this *Kitchin, fol. 129.* faith well, That a Man may hold of the King by Knight-service, and not in *Capite*, because it may be he holds of fome Honor by Knights-service, that is in the Kings hands, by defcent from his Ancestors, and not immediately of the King, as of his Crown. And this *Tenure in Capite* is otherwise called, *Tenure holding of the person of the King, Dyer, fol. 44. Broke, tit. Tenure, num. 65. 99.* But this *Tenure* is now abolished, and by 12 *Car. 2. ca. 24.* all turned into free and common Soccage.

Captain, alias *Capitayne*, *Capitaneus*, Is one that leadeth, or hath Command of a Company of Soldiers; and is either General, as he that hath the Governance of the whole Host; or especial, as he that leads but one Band... There is another sort of Captains, *Qui urbium praefecti sunt, quibus plebs ab aliquo superiorum gubernanda committitur.* So we have Captains of Castles here in England, as of *Dover*, the Isles of *Jersey*, *Guernsey*, *Wight*, &c.

Caption, *Captio*, When a Commission is executed, and the Commissioners names subscribed and returned, that is called the *Caption*.

Capture, *Captura*, A taking, an Arrest, a Seizure, 14 *Car. 2. ca. 14.*

Caput Baroniz, Is the chief Mansion-House of a Nobleman, which (if there be no Son) must descend to the eldest Daughter, and not be divided.

Careca & Carecata, A Cart or Cartload, *Quing. Carcatas clausura ad pradiata urta clausuram sustinendam, Mon. Ang. 2. par. fol. 340. a.*

Cartarius, A Carter. See *Careca* and *Carreta*.

Carke, Seems to be a quantity of Wooll, whereof thirty make a *Sarpler*; 27 *H. 6. cap. 2.* See *Sarpler*.

Carno, Is an immunity, as appears in *Crompt. Jurisd. fol. 191.* where it is said, That the Prior of *Malton* made Claim for him and his men to be quit of all *Amerciaments* within the Forest, and also to be quit of Escapes, and all manner of Gelds, as Foot-gelds, Buckhalls, Frites, *Carno*, and *Suthmage*, &c.

Carpemeates, A course sort of Cloth made in the North of England, mentioned 7 *Jac. 1. 6.*

Carteta, alias *Careca*, Was anciently taken for a Carriage, Cart, or Waine-load; as *Carreta fani* is used in an old Charter, for a load of Hay.

Caracke, alias *Carticke*, Is a Ship of Burthen, and so is call'd of the Italian word *Carico* of *Carco*, which signifies a Burthen: This word is mentioned in the Stat. 2 *R. 2. ca. 4.* and 1 *Jac. ca. 32.*

Carroway-seeds, alias *Carruway-seeds*, Is a Seed springing of the Herb so called,

of whole operation you may read in *Gerards Herbal, lib. 2. ca. 336.* It is reckoned among the Merchandise, that ought to be garbled, by 1 *Jac. ca. 19.*

Cartell. See *Chartell*.

Carucage, *Carucagium*, As *Hidage* was a Taxation by Hides of Land, so *Carucage* was by *Carucas* of Land, *Mon. Ang. 1. par. fol. 294.*

Caruca, A Plough, *Mr. Agar* out of *Doomesday*.

Carucata, A Plough-land, *Doomesday, Mr. Agar.* It is a certain quantity of Land, by which the Subjects have been sometimes taxed; whereupon the Tribute levied upon a *Carue* of Land, was called *Carucagium*, *Bratton, lib. 2. ca. 26. num. 8. & ca. 17.* It may contain Houses, Mills, Pasture, Meadow, Wood, &c. Co. on *Lit. sect. 119.*

It is sometime used for a Cartload, as *Una carrucata Ligni in Foresta nostra, Mon. Ang. 2. par. fol. 311. Littleton, cap. Tenure in Socage, faith, That soca, idem est quod Carduca: Yet Siow in his Annals, pag. 271. makes me doubt, where he faith, The same King Henry took Caruage, that is to say, two Marks of Silver of every Knights Fee towards the Marriage of his Sister *Isabella* to the Emperor, where *Caruage* cannot be taken for a Plough-land, except there were some other further division, whereby to raise of every Plough-land so much, and so consequently of every Knights Fee, that is, of every 680 Acres, two Marks of Silver. *Rassal*, in his Exposition of words, faith, That *Caruage* is to be quit, if the King shall Tax all the Land by *Carues*, that is, a Priviledge, whereby a man is exempted from *Caruage*. *Shene de verbor. Signif. verb. Carucata terra, deriveth it from the French Charrow (more truly Charrue) a Plough, and faith, That it contains as great a portion of Land as may be tilled and laboured in a year and a day with one Plough; which also is called Hilda, or Hida terra; a word frequently used in the Britain Laws. Lambert among his Precedents, towards the end of his Eirenarcha, translates Carucata terra, a Plough-land. The word Carue is mentioned in the Statute of Wards and Reliefs, made 28 E. 1. And in Magna Charta, cap. 5. See Co. on Lit. fol. 69. a.**

Carbage, *Carvagium*. See *Carucata*.

Callatum & Callata, By the Saxons called *Hide*; by *Bede, familia*, is a House with Land sufficient to maintain one Family.

Cassia fistula, Is a Tree that beareth black, round, and long Cods, wherein is contained a pulpe, soft and pleasantly sweet, serving for many uses in Physick. This Tree, with the Vertues, you may find described in *Gerards Herbal, lib. 3. cap. 77.* The Fruit is mentioned in the Statute 1 *Jac. cap. 19.* among the Drugs and Spices to be garbled.

Cassia lignea, Is a sweet Wood, not unlike to *Cinnamon*, whereof you may read in *Gerards Herbal, lib. 1. cap. 19.* and comprised among Merchandise to be garbled.

Castell, *Castellum*, Is well known. In the time of Henry the Second, there were in England 1115 Castles, every Castle contains a Mannor; so that the Constable of a Castle, is the Constable of a Mannor, 2. *par. Inst. fol. 31.*

Castellane, *Castellanus*, Is a Keeper or Captain,

Captain, sometimes called a *Constable of a Castle*, *Bras. lib. 5. tra. 2. cap. 16. & lib. 2. cap. 32. num. 2.* In like manner it is used, *3 E. 1. cap. 7.* In the Books *De Feudis* you shall find *Guastaldus* to be almost of the same signification, but something more large, because it is also extended to those that have the Custody of the Kings Mansion-houses, called of the *Lombards*, *Curtis*, in English Courts, though they be not places of Defence or Strength. *Manwood* in his *Forest Law* saith, That there is an Officer of the Forest called *Castellanus*.

Castleward, *Castelgardum*, vel *wardum Castri*, Is an Imposition laid upon such of the Kings Subjects as dwell within a certain compass of any Castle, towards the maintenance of such as do Watch and Ward the Castle, *Mag. Chart. cap. 20. and 32 H. 8. cap. 48.* It is used sometime for the very Circuit it self, which is inhabited by such as are subject to this Service, as in *Stowes Annals*, pag. 632. And there to take *Castleward*, viz. *De qualibet districtione infra feodum ipsius ducis ad Castellum de Halton, ducti & ibidem una de causa, si per solam noctem pernoctaverit, quatuor denarios*, Pl. apud Cestr. 31 E. 3.

Casu consimili, Is a Writ of Entry granted where the Tenant by Curtesie, or Tenant for terme of Life, or for the Life of another, doth alien in Fee, or in Tayle, or for terme of anothers Life. And it hath the Name of this for that the Clerks of the Chancery did, by their Common consent, frame it to the likeness of the Writ called *In casu proviso*, according to their authority given them by the *Srat. West. 2. cap. 24.* which, as often as there chanceth any new Case in Chancery, something like to a former Case, and yet not especially fitted by any Writ, licenceth them to lay their Heads together, to frame a new form answerable to the new Case, and as like some former Case, as they may. And this Writ is granted to him in the Reversion against the Parry to whom the said Tenant so alienateth to his prejudice, and in the life-time of the said Tenant. The form and effect whereof read more at large in *F. N. B.* fol. 206.

Casu proviso, Is a Writ of Entry given by the Statute of Gloucester, cap. 7. In Case where a Tenant in Dower alieneth in Fee, or for terme of Life, or in Tayl, and lieth for him in Reversion against the Alienee, whereof read *F. N. B.* fol. 205.

Catallis alias Chattells, *Catalla*, Cometh from the Normans, for in the Eighty Seventh Chapter of the *Grand Customary*, you shall find that all moveable Goods with them are called *Chattells*; the contrary whereof is *Fief*, *ibid.* which we call *Fee*. But as it is used in our Common-Law, it comprehends all Goods moveable and immoveable, but such as are in the nature of Freehold, or parcel thereof, as may be gather'd out of *Stamf. Prerog. cap. 16.* And *Anno 1 Eliz. cap. 2.* *Howbeit Kitch.* in his Chapter *Catalla* fo. 32. saith, That ready Money is not accounted any Goods or *Chattells*, nor Hawks nor Hounds; the reason for Hawks and Hounds he gives, is, because they are *Fera natura*; but why Money is not, though he set not down the cause, yet it may be gathered to be, for that Money of it self is not of worth, but as by consent of men for their easier traffick, or permutation of things necessary for life. It is

reckoned a thing rather consisting in imagination, than in Deed. And here note, That *Chattells* be either *personal* or *real*. *Personal* may be so called in two respects, one, because they belong immediately to the person of a man; as a Bow, a Horse, &c. the other, for that being any way withheld injuriously from us, we have no means to recover them but by personal Action: *Chattells* real be such, as either do not appertain to the person, but to some other thing by way of dependency, as a Box with Charters of Land; the Body of a Ward, Apples upon a Tree, or a Tree it self growing on the Ground, *Crompt. Justice of Peace*, fol. 33. b. or else such as are necessary, issuing out of some immoveable thing to a person, as a Lease or Rent for term of years. And also to hold at will is a *Chattell* real, *Termes de la Ley*, verbo *Chattell*. The *Civilians* comprehend these things, as also Lands of what kind or holds soever, under *bona*; *bona autem dividuntur in mobilia & immobilia*; *mobilia* vero in ea qua se movent vel ab aliis moventur, V. legem. 49. & l. 208. de verb. Signif. & interpretes *ibidem*. *Bras.* also cap. 3. lib. 3. num. 3. & 4. seemeth to be of the same Judgment.

Catallis captis, nomine *districtionis*, Is a Writ that lyeth within a Borough, or within a House, for Rent going out of the same, and warranteth a Man to take the Doors, Windows or Gates for Rent, *Old Nat. Brev.* fol. 66.

Catallis reddendis, Is Writ which lyeth where Goods being delivered to any man to keep until a certain day, and be not upon demand delivered at a day. And it may be otherwise called a Writ of *Detinuit*. See more of it *Reg. Orig.* fol. 139. and *Old Nat. Brev.* fol. 63. This is answerable to *actio depositi* in the Civil-Law.

Catchpole, Though it now be used as a word of contempt, yet in ancient times it seemeth to have been used without Reproach; for such as we now call *Sergeants of the Mace*, or any other that use to arrest Men upon any cause, *25 E. 3. Stat. 4. cap. 2.* *Hospitalarii tenent in Hereford unum Messuagium quod Philippus filius Odonis tenuit per Serjeantiam*, *Chacepollui*, quod eis legavit in puram Eleemosynam, *Rot. de Serjeantiis in Heref. temp. H. 3. in custod. Camerar. Scaccar.*

Cathedral, See *Church*.

Cathedratike, *Cathedratikum*, Is a sum of two Shillings paid to the Bishop by the Inferior Clergy, *In argumentum subjectionis & ob honorem Cathedralis*. See *Hist. of Procurations and Synodalls*, pag. 82.

Caulceis, *6 H. 6. cap. 5. Caulsey*, *1 E. 4. 1.* Perhaps it should be written *Causeways*, from the old French word *Cauz*, now *Caillon*, a Flint or other Stone; in Latine *Calcetra*, --- *pro ponte & calcetra reparand.* *Pat. 18 H. 6. p. 2. m. 22.* Sometimes it may be written *Calcaya*, *Cassa*, and *Calsetum*, in old Records.

Causam nobis signifies, Is a Writ which lyeth to a Mayor or a Town or City, &c. that formerly by the Kings Writ being commanded to give Seisin unto the Kings Grantee of any Lands or Tenements, doth delay so to do, willing him to shew cause why he so delayeth the performance of his Charge, *Co. lib. 4. casu* *Communitate de Sadlers.* fol. 55. b.

Causa Patrimonii p̄toruri, Is a Writ
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which lies in case where a Woman giveth Lands to a Man in Fee-simple, to the intent he shall marry her, and refuseth so to do in reasonable time, being required thereunto by the Woman; the form and other use thereof, see *Reg. Orig. fol. 233.* and *F. N. B. 205.*

Cautione admittenda, Is a Writ that lyeth against the Bishop, holding an Excommunicate person in prison for his Contempt, notwithstanding that he offereth sufficient Caution or Pledges to obey the Commandments and Orders of Holy Church from henceforth. The form and effect whereof you may find in *Reg. Orig. pag. 66.* and *F. N. B. fol. 63.*

Capa, A Key or Waterlock, from the Saxon *Cæp*. See *Key*.

Ceapgilde, A word derived from the Saxon *Ceap*, signifying *pecus*, Cattel and *Gild*, *solutio*, that is, *solutio pecudis*, from this Saxon word *Gild*, haply we may have our common English word *yield*, as *yield* or *pay*.

Cellerarius, alias **Cellarius**, Was the Butler in a Monastery: In the Universities of England they are sometimes called *Munciple*, sometimes *Caterer* and *Steward*.

Censarii, Such as might be taxed, *Doomesday*.

Century. See *Hundred*.

Cepi corpus, Is a Return made by the Sheriff, that upon a *Capias*, *Exigens*, or other Process, hath taken the Body of the Party, *F. N. B. fol. 26.*

Cerage, *Ceragium*. See *Waxshot*.

Cert Money, *Quasi certa Moneta*, The Head penny, or common Fine, yearly given by the Reliants and Tenants of several Mannors to the ancient Records, is called *Certum Leta*. See *Common Fine*.

Certiorari, Is a Writ out of the Chancery to an Inferior Court, to call up the Records of a Cause therein depending, that conſcionable Justice may be therein administered upon Complaints made by Bill, that the Party which seeketh the said Writ, hath received hard dealing in the said Court, *Termes de Ley*. See the divers Forms and Uses of this, *F. N. B. fol. 242.* as also the Register both *Original* and *Judicial* in the Tables verbo *Certiorari*, *Crompton* in his *Justice of Peace*, fol. 117. saith, That this Writ is either returnable in the *Kings Bench*, and then hath these words, *Nobis mittatis*, or in the Chancery, and then hath in *Cancellaria Nostra*, or in the *Common Bench*, and then hath *coram Justiciariis nostris de Banco*. The word *Certiorari* is used divers times in the digest of the *Civil-Law*; but our later Criticks think it so barbarous, that they suspect it to be rather foisted in by *Tribonian*, than to be originally used by those men of whose works the said *Digest* is compiled: *Præsum in suo Lexico*.

Certificat, *Certificatorium*, Is used for a writing made in any Court, to give notice to another Court of any thing done therein. As for example, A Certificate of the Cause of Attaint, is a transcript made briefly, and in few words, by the Clerk of the Crown, Clerk of the Peace, or Clerk of Assize, to the Court of the *Kings Bench*, containing the tenor and effect of every Indictment,

Outlawry, or Conviction, and Clerk attainted, made or pronounced in any other Court, 34 H. 8. 14. Of this, see more in *Certificat & Fecq; Bro. f. 119.*

Certification of Assise of Robert Willelmus, &c. *Certificatio Assise Nova Dissisina*, &c. Is a Writ granted for the reexamining or review of a matter passed by Assise before any Justices, and is called *Certificatio Nova Dissisina*, *Old Nat. Brev. fol. 181.* Of this, see also *Reg. Orig. fol. 200.* and the *New Book of Entries* verb. *Certificatione of Assise*. This word hath use, where a man appearing by his Bayliff to an Assise brought by another, hath lost the day, and having something more to plead for himself, as a Deed of Release, &c. which the Bayliff did not, or might not plead for him, desireth a farther examination of the Cause, either before the same Justices or others, and obtaineth Letters Patents to them to that effect. The form of these Letters Patents, you may see *F. N. B. fol. 181.* and that done, bringeth a Writ to the Sheriff, to call both the Party for whom the Assise passed, and the Jury that was empannelled upon the same, before the said Justices at a certain day and place: And it is called a *Certificat*, because in it there is mention made to the Sheriff, that upon the Parties Complaint of the defective examination, or doubts, yet remaining upon the Assise passed, the King hath directed his Letters Patents to the Justices for the better certifying of themselves, whether all points of the said Assise were duly examined. See farther, *Old Nat. Brev.* and *F. N. b. ubi supra*. Of this you may also read *Brañ. lib. 4. cap. 19. num. 4. in fine* & 5. 6. where he discusseth the reason of this Point very learnedly. And lastly, *Horne* in his *Mirror of Just. lib. 3. cap. final. scilicet en ayde des memoires*, &c.

Certificando de recognitione stapule, Is a Writ directed to the Mayor of the Staple, &c. commanding him to certify the Chancellor of a Statute of the Staple, taken before him between such and such, in case where the party himself detaineth it, and refuseth to bring it in, *Reg. Orig. fol. 152. b.* In like manner may be said of *Certificando de statuto mercatoris*, *Eod. fol. 148.* And of *certificando in cancellarium de inquisitione de idempnitat nominis*, fol. 195. And *certificando quando recognitio*, &c. And *certificando quid actum est de brevi super statuto mercatoris*, fol. 151. And *certificando in loquela Warrantie*, fol. 13.

Cervisarii, The Saxons had a Duty called *Drinckleum*, that is, *retributio potus*, *Canutus Lawi*, cap. 8. 28. 38. whereupon such Tenants may be called *Cervisarii*, *Doomesday*, *Mr. Agar*.

Cessor, Is he that ceaseth or neglecteth so long to perform a Duty belonging unto him, as that by his *cess* or *ceasing*, he incurreth the danger of Law, and hath or may have the Writ *Cessavit* brought against him, *Old Nat. Brev. fol. 136.* And note, that where it is said in divers places, *The Tenant cesseth*, without any more words, that is to be understood, the Tenant *ceaseth* to do that which he ought, or is bound to do by his Land or Tenement.

Cessavit, Is a Writ that lyes in divers Cases, as appeareth by *F. N. B. fol. 280.* upon this general ground, that he against whom it is brought hath for two years neglected to perform such Service, or to pay such Rent as he is tyed to

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by his Tenure, and hath not upon his Land or Tenement sufficient Goods or Chattels to be distrained. Consult more at large F. N. B. 280. *Fleta*, lib. 5. cap. 34. *scilicet* *visa sunt*. *Termes de Ley*. See *Cessavit de Cantaria*, Reg. Orig. 238. *Cessavit de feodo firma*, Reg. Orig. 237. *Cessavit per biennium*, *ibid*. See the *New Book of Entries*, verbo *Cessavit*.

Cesses, By 22 H. 8. cap. 3. Seems to signify Assessment or Taxes: *Cesse* or *Cess* in Ireland is an exaction of Victuals at a certain rate for the Deputies Family, and the Souldiers in Garrison. See the Earl of *Siraffords* Tryal.

Cession, Is when an Ecclesiastical person is created Bishop, or when a Parson of a Parsonage takes another Benefice without Dispensation, or otherwise not qualified, &c. In both cases their first Benefices are become void, and are said to become void by *Cession*: And to those that he had who was created Bishop, the King shall present for that time, whoever is Patron of them; and in the other case the Patron may present.

Cessure or **Celler**, Is likewise taken to signify a giving over, or giving of place, *Westm.* 2. cap. 41.

Cestui qui vie, Is in true French *Cestuy a vie de qui*, that is, he for whose life any Land or Tenement is granted, *Perkins Grants*, 97.

Cestui que use, *Ille cuius usui vel ad cuius usum*, is broken French, and this may be better modelled (*Cestui a use de qui*) It is an ordinary speech among Lawyers, signifying him to whose use any other man is enfeoffed in any Lands or Tenements. See the *New Book of Entries*, verbo *Uses*, and in *Replevin*, fol. 508. col. 3. verbo *Trespas*, fol. 606. & 123. col. 3. num. 7. And see 1 R. 3. cap. 1. and *Co. lib.* 1. fol. 133. *Anno* 12 Car. 2. cap. 30.

Cestui qui trust, Is he who hath a trust in Lands or Tenements committed to him, for the benefit of another, 12 Car. 2. cap. 30.

Chafewax, Is an Officer in Chancery, that fitteth the Wax for the sealing of the Writs, and such other Instruments as are there made to be sent out. This Officer is borrowed from the French, for there *chafewaxes cera sunt qui Regii literis in cancellaria ceram imprimunt*: *Corasius*.

Chaffers, Seem to signify Wares or Merchandise, 3 E. 4. 4. And we yet use *chaffering* for buying and selling.

Chaldron, or **Chalbern of Coals**, Contains thirty six Bushels of Coals, heaped up, and according to the sealed Bushel kept at *Guild-hall*, London, for that purpose, 16, 17 Car. 2. cap. 2. It is written *Chawdron*, 9 H. 5. 10.

Challenge, *Calumnia*, Cometh of the French word *Chalenger*, that is, *sibi asserere*, and in a legal sence signifies an exception taken either against persons or things; Persons, as in Assise to the Jurors, or any one or more of them; or in a case of Felony by a Prisoner at the Bar, *Smith de Rep.* Ang. lib. 2. cap. 12. *Britton*, cap. 52. *Bracton*, lib. 2. tract. 2. cap. 22. Against things, as a Declaration, *Old Nat. Brev.* fol. 76. *Challenge* made to the Jurors, is either made to the *Array*, or to the *Polles*: *Challenge* to the *Array*, is when the whole number is excepted against as partially empannelled; *Challenge* to or by the *Polle*, when

some one or more are excepted against as not indifferent, *Termes de la Ley*. *Challenge* to the Jurors is also divided into *Challenge principal*, and *Challenge per cause*, that is, upon Cause or Reason. *Challenge principal* (otherwise by *Stamf. pl. cor. fol.* 157. 158. called *Peremptory*), is that which the Law alloweth without cause alledged, or farther examination, *Lamb Eiren.* lib. 4. cap. 14. as a Prisoner at the Bar, arraigned upon Felony, may peremptorily *challenge* to the number of twenty, one after another, of the Jury empannelled upon him, alledging no cause, but his own dislike, and they shall be still put off, and new taken in their Places. But in case of High-Treason, no *Challenge peremptory* is allowed, 33 H. 8. 22. *Fortescue* saith, That a Prisoner in this case may *challenge* thirty five men, cap. 27. but that Law was abridged by 25 H. 8. cap. 3. And here observe, That there is some difference, *Challenge principal* and *Challenge peremptory*; *peremptory* being used only in matters Criminal; and alledged without other cause than barely the Prisoners fancy, *Stamf. pl. cor. fol.* 124. But *principal* in civil Actions for the most part, and with naming some such cause of exception, as being found true, the Law alloweth, without farther scanning: For example, If either Party say, that one of the Jurors is the Son, Brother, Cousin, or Tenant to the other, or espoused his Daughter; this exception is good and strong enough, if it be true, without farther examination of the Parties Credit; and how far this *Challenge* upon Children reacheth, you have a notable example in *Plowden*, in the Case of *Vernon* against *Mannors*, fol. 425. Also in the plea of the death of a Man, and in every Action real, as also every Action personal, where the Debt or Damages amount to forty Marks, it is a good *challenge* to any man, that he cannot dispend forty shillings by the year of Free-hold, 11 H. 7. cap. 21. The ground of this *challenge* you may see farther in *Fleta*, lib. 4. cap. 8. *Challenge* upon reason or cause, is when the Party doth alledge some such exception against one or more of the Jurors, as is not forthwith sufficient upon acknowledgment of the truth thereof, but rather arbitrable and considerable by the rest of the Jurors: As for example, If the Son of the Juror have married or espoused the Daughter of the adverse party, *Termes de la Ley*, verbo *Challenge*. This *Challenge per cause*, seems by *Ritchin*, fol. 92. to be termed *Challenge for favour*, or rather *Challenge for favour* is said there to be one species of *Challenge per cause*; where you may read what *Challenges* be commonly accounted *principal*, and what not. See the *New Book of Entries*, verbo *Challenge*, and the *Old Nat. Brev.* fol. 158. 159. That this word *Challenge* is turned into Latine by the word *Calumnia*, appeareth by *Bracton*, lib. 3. tract. 2. cap. 18. & lib. 4. tract. 3. cap. 6. & lib. 5. cap. 6. See farther *Fleta*, lib. 1. cap. 32. *Co. on Lit.* 156. 157. &c. and *ca. angium*.

Chamberdekins or **Chamberdaksins**, Were Irish Beggars, which by the Statute of 1 H. 3. cap. 8. were by a certain time, within the said Statute limited to avoid this Land, *Termes de la Ley*, fol. 114.

Chamberer, Is used for a Chamber-Maid, 33 H. 8. cap. 21.

Chamberlain, *Camerarius*, Cometh of the

the French *Chambellan*, that is, *cubicularius* vel *præfatus cubiculi*: It is diversly used in our Chronicles, Laws and Statutes, as *Lord Great Chamberlain of England*, *Lord Chamberlain of the Kings House*, the *Kings Chamberlain*, 13 E. 1. cap. 41. and 17 R. 2. cap. 16. To whose Office it especially appertaineth to look to the Kings Chambers and Wardrobe, and to govern the under-servants belonging to the same, *Fleta*, lib. 2. cap. 6. 7. *Chamberlain* of any of the Kings Courts, 7. E. 6. 1. *Chamberlain* of the Exchequer, 51 H. 3. Stat. 5. 10. E. 3. 11. 14 E. 3. 14. 26 H. 8. 2. *Chamberlain* of *Chester*, *Crompt. Jur. fol. 7.* and *Chamberlain* of *London*. This Officer is commonly the Receiver of all Rents and Revenues belonging to that City whereto he is *Chamberlain*. *Vide Fleta*, lib. 2. cap. 70. To the *Chamberlain* of *Chester*, when there is no Prince of Wales and Earl of *Chester*, belongs the receiving and returning of all Writs coming thither out of any the Kings Courts. The Latine word seemeth to expresse the Function of this Officer, for *Camerarius* dicitur a camera, i. *Testudine* sive *fornice*, quia custodit pecunias quas in cameris præcipue reservantur, *Onuphrius de interpret. voc. Eccles.* It seemeth to be borrowed from the *Feudists*, who define the word *Camera* thus, *Camera est locus in quem thesaurus colligitur, vel conclave in quo pecunia reservatur. Zasius de Feudis*, par. 4. num. 7. And *Peregrinus de jure Fisci*, lib. 6. tit. 3. faith, That *Camerarius* vel *Chamberlingus* (quem *Quæstorem antiqui appellaverunt*) in rebus fisci primum locum tenet, quia *Thesaurarius* & *custos est publicæ pecuniæ*. There be two Officers of this Name in the Kings Exchequer, who were wont to keep a Controlement of the *Pells* of Receipt and Exitus, and kept certain Keys of the Treasury and Records: They kept also the Keys of that Treasury, where the Leagues of the Kings Predecessors, and divers ancient Books, as *Doomsday*, and the *Black Book* of the Exchequer remain. There is mention of this Officer in the Stat. 34 & 35 H. 8. cap. 16. There be also *Under-Chamberlains* of the Exchequer, which see in *Under-Chamberlain*.

Champarty, (*Cambi partia*) alias *Champerty*, seemeth to come from the French *Champert*, *Veigal*, and signifieth in our Common Law a Maintenance of any Man in his Suit depending, upon condition to have part of the things (be it Lands or Goods) when it is recovered, *F. N. B. fol. 171.* This seems to have been an ancient grievance in our Realm, for notwithstanding the Statutes of 3 E. 1. 25. 13 E. 1. 49. 28 E. 1. 11. 33 E. 1. Stat. 2. & 3. and 1 R. 2. cap. 4. and a form of a Writ framed unto them; Yet *Anno 4. E. 3. 11.* it was again Enacted, That whereas the former Statute provided redress for this in the Kings Bench only, (which at that time followed the Court) from thenceforth it should be lawful for Justices of the Common-Pleas likewise, and Justices of Assizes, in their Circuits, to inquire, hear and determine this and such like Cases, as well at the Suit of the King, as of the Party. How far this Writ extendeth, and the divers forms thereof applied to several Cases, see in *F. N. B. fol. 171. Reg. Orig. fol. 183.* and the *New Book of Entries*, verbo *Champerty*, every *Champerty* implieth Maintenance, *Crompt. Jur. fol. 39.* See also *Crompt. Just. of Peace. fol. 155. 2. par. Inst.*

fol. 208. But every Maintenance is not *Champerty*, for *Champerty* is but a Species of Maintenance, which is the Genus. The word *Champerty* seems very significantly to derive it self from *campus* a Field, and *partio* a dividing; because the Parties in *Champerty* agree to divide the thing in dispute.

Champertors, *Vel campi participes sunt qui per se, vel per alios placita movent, vel movere faciunt & ea suis sumptibus prosequuntur ad campum partem, vel pro parte lucris habenda*, 33 E. 1. Stat. 2. Artic. super Chart. cap. 11. Also it was Ordained by the Stat. 33 H. 8. confirmed by 37 H. 8. 7. That Justices of Peace, at their Quarter Sessions, should have authority as well by the Oaths of twelve Men, as by the Information of any other person to inquire of the Offenders and Offences against the Laws and Statutes made and provided touching *Champerty*, Maintenance, &c. *Termes de la Ley*, fol. 114, 115.

Champion, (*Campio*) Is thus defined by *Hottoman*, *In verbis feudalibus: Campio est certator pro alio datus in duello, a campo dictus, qui circus erat decertantibus definitus; and therefore called Champesight.* In the Common-Law, it is taken no less for him that tryeth the Combat in his own case, than for him that fighteth in the Quarrel or Place of another, *Bract. lib. 3. tract. 2. cap. 21. num. 24.* seems to use this word for such as hold by *Sergeanty*, or some Service of another, as *Campiones faciunt Homagium Domino suo*, lib. 2. cap. 35. Of this, read more in *Battel* and *Combate*. Also in fol. 36. of *Sir Edward Bishes* notes upon *Upton*, you will find, That *Henricus de Ferneberg* for thirty Marks Fee, did by a Charter, under his Seal, covenant to be *Champion* for *Roger Abbas* of *Glastonbury*, *Anno 42 H. 3.* See 3. *Inst. fol. 221.*

Champion of the King, His Office is at the Coronation of our Kings, when the King is at Dinner, to ride armed into *Westminster-hall*, and by a Herald make a Challenge, That if any Person shall deny the Kings Title to the Crown, he is there ready to defend it; which done, the King drinks to him, and sends him a gilt Cup with a cover full of Wine, which he hath for his Fee. This Office ever since the Coronation of *Richard the Second*, when *Baldwin Freville* laid claim to it, was from him adjudged to his Competitor *Sir Jo. Dymocke*, (both claiming from *Marmion*) and hath ever since continued in the Family of the *Dymockes*, who hold the Mannor of *Scrivelshy* in *Com. Lincoln* hereditarily from the *Marmions*, by *Grand Sergeanty*, *Cambd. in part fin. Mich. 1. H. 6.* and accordingly *Sir Edward Dymocke* performed this Office at his present Majesties Coronation, *April the 23d. 1661.*

Chancelloz, *Cancellarius*, Cometh of the French (*Chancelier*) *Vincent Lupanus de magistratibus Francorum*, faith, That *Cancellarius* is no Latine word, though he citeth Latine Writers that use it; with him agrees *Petrus Pithæus*, lib. 2. *adversariorum*, cap. 12. And whereas *Lupanus* would derive it from the verb *Cancellare*, *Pithæus* thinketh he hath some (though not sufficient) colour for his Opinion, and therefore rather deriveth it from *Cancellis*, an inclosed or separated place, a Chancell; or place inclosed with bars, to defend the Judges and other Officers from the puffs of the People. *Cancellarius* at first, as *Lupanus* thinks

thinks, signified the *Registrars* in Court; *Grapharii*, *sc. qui conscribendi & excipiendo iudicium adstant operam*. But this Name in our days is highly advanced, and not only in other, but in our Kingdom also, is given to him that is the chief Man for matter of Justice (in private Causes especially) next unto the Prince; for whereas all other Justices are tyed to the Law, and may not swerve from it in Judgment: The Chancellor hath in this the Kings absolute Power to moderate and temper the written Law, subjecting himself only to the Law of Nature and Conscience, ordering all things *juxta equum & bonum*. And therefore *Stamford* in his *Prerogative*, cap. 20. fol. 65. saith, That the Chancellor hath two Powers, one *absolute*, the other *ordinary*; meaning, that though by his ordinary Power, in some Cases, he must observe the form of proceeding as other ordinary Judges; yet that in his *absolute* Power he is not limited by the written Law, but by Conscience and Equity, according to the circumstances of the Matter in question. But how long he hath had this Power, some would doubt; For *Polydore Virgil*, lib. 9. Hist. Ang. hath these Words of *William the Conqueror*, *Instituit item scribarum collegium qui Diplomata scriberent, & ejus collegii Magistrum vocabat Cancellarium, qui paulatim supremus factus est Magistratus, qualis hodie habetur*. And see *Fleta*, lib. 2. cap. 13. This high Officer seems to be brought from France to us, as many other Officers and Usages be. But Mr. *Dugdale* in his *Origines Judiciales* makes this an Error, giving us a Catalogue of Chancellors before that time: He that with us beareth this Magistracy, is called the *Lord Chancellor of England*, Anno 7 R. 2. cap. 14. and by the Stat. 5 Eliz. cap. 18. the Lord Chancellor and Keeper have all one Power. He is made by the King, by delivery of the Great Seal to him, and taking an Oath. See *Lord Keeper*. See *Fleta*, lib. 2. cap. 12. 13. And *Co. Infr.* 4. fol. 78. 79. There are divers other inferior Officers that be called Chancellors, as Chancellor of the Exchequer, 25 H. 8. 16. whose Office hath been thought by many, to have been created for the qualifying of Extremities in the Exchequer. He sitteth in the Court and the Exchequer-Chamber, and with the rest of the Court ordereth things to the Kings best benefit: He is always in Commission with the Lord Treasurer, for the letting of the Lands that came to the Crown, by the dissolution of Abbeyes, and hath by Privy-Seal from the King Power, with others, to compound for Forfeitures or Bonds upon Penal Statutes: He hath also much to do in the Revenue come by the dissolution and First-Fruits, as appears by the Acts of uniting them to the Crown.

Chancellor of the Duchy of Lancaster, 3 E. 6. 1. and 5 E. 6. 26. Whose Office is principally in that Court to judge and determine all Controversies between the King and his Tenants of the *Duchy Land*, and otherwise to direct all the Kings Affairs belonging to that Court.

Chancellor of the Order of the Garter, *Stowes Annals*, 706. Chancellor of the University, 9 H. 5. 8. 2 H. 6. 8. Chancellor of the Court of *Augmentations*, 27 H. 8. 27. & 32 H. 8. 20. & 33 H. 8. 39. Chancellor of the First-fruits, 32 H. 8. 45. Chancellor of Courts, 32

H. 8. 28 Chancellor of the Diocese, 32 H. 8. 15.

Chance-medley, Signifies the casual killing of a Man, not altogether without the Killers Fault, though without an Evil Intent, *Sams. pl. cor. lib. 1. cap. 8.* calls it, *Homicide by Misadventure*, *West. Symb. par. 2. Tit. Indictments*, *sec. 5.* calls it, *Homicide mixt*. It is also called *Manslaughter by misadventure*, for which the Offendor shall have his Pardon of Course, as appears by the Statute of 6 E. 1. 9. but here is to be considered whether he that commits this Manslaughter by *Chance-medley* was doing a lawful thing; for if the act were unlawful, it is Felony. As if two are Fighting together, and a third man comes to part them, and is killed by one of the two, without any malice forethought, or evil intent in him that killed the Man; yet this is Murder in him, and not Manslaughter by *Chance-medley* or Misadventure, because they two that fought together were doing an unlawful act: And if they were met with premeditated Malice, the one intending to kill the other, then it is Murder in them both. See *Skene de verbor signif. verb. Melletum*, where he says this in Scotland is called *Chaudmelle*.

Chancery, *Cancellaria*, Is a Court of Equity and Conscience, moderating the rigour of other Courts, that are not strictly tyed to the Letter of the Law, whereof the Lord Chancellor of England is the chief Judge, *Crompt. Jur. fol. 41.* Or else the Lord Keeper of the Great Seal, 4 Eliz. cap. 18. The Officers belonging to this Court, are, The Chancellor or Keeper of the Broad Seal, twelve Masters of the Chancery, whereof some always sit by turns on the Bench, as Assistants; the six Clerks, who have each of them about twenty Clerks under them, in nature of Attorneys in the Court; two chief Examiners, who have each of them several Clerks: One chief Register, who hath usually four or five Deputies: The Clerks of the Crown, the Warden of the Fleet, the Usher, Sergeant at Arms, and Cryer of the Court; the Curstors and their Clerks, the Clerks of the Petty-Bag, the Clerk of the Hanaper, the Controller of the Hanaper, the Clerk of Appeals, the Clerk of the Faculties, the Sealer, the Chase-Wax; the Clerk of the Patents, Clerk of Presentations, Clerk of Dismissions, Clerk of Licences to alienate, Clerks of the Enrolments, Clerk of the Protections, Clerk of the Subpenas, Clerk of the Affidavits, &c. which see described in their several places, *Co. 4. Infr. fol. 82.*

Changer, Is an Officer belonging to the Kings Mint, mentioned in the Statute of 2 H. 6. cap. 12. where also Written after the old Way *Changour*, whose business was chiefly to exchange Coyn for Bullion brought in by Merchants or others.

Chantry, See *Chantry*.

Chapel, *Capella*, Cometh of the French *Chapelle*, that is, *edicula*, and is of two sorts, either adjoining to a Church as a Parcel, of the same, which Men of Worth do Build, *ut ibidem familiaria Sepulchra sibi constituant*; or else separate from the Mother-Church, where the Parish is Wide, and commonly called a *Chappel of ease*, because it is built for the ease of one or more Parishioners that dwell too far from the Church, and

served by some inferior Curate, provided at the charge of the Rector, or of them that have benefit by it, as the composition or custome is: Whence the word is derived, the *Canonists* differ in Opinion, neither will we trouble our selves about it, since it makes not much to our purpose. There is a free *Chappel*, which seemeth to be such as hath maintenance perpetual towards the upholding thereof, and Wages of the Curate, by some Lands charitably bestowed on it, without the Charge of the Rector or Parish, 37 H. 8. ca. 4. Anno 1 E. 6. ca. 14.

Chapellaine or Chaplaine, *Capellanus*, Is he that performeth Divine-Service in a *Chappel*; and therefore in the Common-Law it is used most ordinarily for him that is depending upon the King, or other Man of worth, for the Instructing him and his Family, to Pray and Preach in his private House, where commonly they have a *Chappel* for that purpose, as 21 H. 8. 13. where it is set down what persons may privileged one or more *Chaplains*, to discontinue from their Benefices for their peculiar Service.

Chapelry, (*Capellania*) Is the same thing to a *Chappel*, as a Parish is to a Church. See the Statute of 14 Car. 2. cap. 9.

Chaperon, A Hood or Bonnet mentioned in the Stat. 1 R. 2. 17. and in Heraldry is that Title *Escutcheon*, which is fixt on the Fore-head of the Horses that Draw a Horse to a Funerall.

Chapters, *Capitula*, Cometh of the French *Capitre*, i. *caput libri*, It signifies in our Common-Law a Summary, or Content of such matters as are to be enquired of, or presented before Justices in Eyre, Justices of Assise, or of Peace in their Sessions: So it is used Anno 3 E. 1. cap. 27. in these Words, And that no Clerk of any Justice, Richeator or Commissioner in Eyre, shall take any thing for delivering *Chapters*, but only Clerks of Justices in their Circuits. And again, Anno 13 E. 1. cap. 10. in these Words, And when the time cometh, the Sheriff shall certify the *Chapters* before the Justices in Eyre, how many Writs he hath, and what, &c. Britton also useth the word in the same Sense, chap. 3. *Chapters* or *Capitula* be now called *Articles* most ordinarily, and are delivered as well by the Mouth of the Justice in his Charge, as by the Clerks in writing to the Inquest; whereas in ancient times, as appeareth by *Brañon* and *Britton*, they were after an Exhortation given by the Justices for the good observation of the Laws and King's Peace, first read distinctly and openly in the whole Court, and then delivered in Writing to the Grand Inquest. And the same order doth *Lambert* wish to be kept in these days, *Eirenarc. lib. 4. cap. 4. pag. 393.* Horne in his *Mirrou of Justice*, calleth them *Articles*, and expresseth what they were wont to contain, lib. 3. cap. de *Articles* in Eyre. An example of these *Chapters* or *Articles*, you have in the Book of *Assises*, fol. 138. num. 44. As also in *Roger Hoveden, parte post. suor. annal in Richardo primo*, fol. 423.

Chapter, *Capitulum*, Signifieth in our Common-Law (as in the Canon-Law) whence it was borrowed, *Congregationem clericorum in Ecclesia Cathedrali, conventuali, regulari vel collegiata*, &c. in another sense, *Locum in quo sunt communes*

tractatus collegiatorum. It hath other significations, though not worth the repeating in this place, which you may read in *Linwoods Provincialis Gloss. in ca. Quia incontinentia, de constitutionibus verb. Capitulis*. Such a Collegiate company is metaphorically termed *Capitulum*, that is, a little Head, for such a Corporation is a kind of Head, not only to Rule and Govern the Diocess in the Vacation of a Bishoprick, but also in many things to advise the Bishop when the See is full, *Panormitan. in cap. Capitulum extra de rescriptis*.

Charre of Lead, A *Charre of Lead* consists of Thirty Pigs, each Pig containing six Stone wanting two Pound, and every stone being twelve pound, *Assisa de ponderibus*, Rob. 3. R. Scot. cap. 22. sect 2.

Charte, *Charta*, Paper, Parchment, or any thing to write on; also a Card which Mariners use at Sea, mentioned 14 Car. 2. cap. 33. See *Charter*.

Chartel, A Letter of Defiance or Challenge to a Duel, in use heretofore, when Combats were in Practice, to decide difficult, and not otherwise to be determined, Controversies in Law.

Charta Pardonationis se Defendendo, Is the Form of a Pardon, for Slaying another Man in his own Defence, *Reg. Orig. fol. 287.*

Charta Pardonationis utlagariz, Is the Form of a Pardon for a Man that is Outlawed, *Reg. Orig. fol. 288, 388.*

Charter, *Charta*, French *Charters*, that is, *Instruments*: It is taken in our Law for Written Evidence of things done between Man and Man; whereof *Brañon, lib. 2. cap. 16. num. 1.* saith thus, *Fiunt aliquando donationes in scriptis, sicut in Chartis, ad perpetuam rei memoriam propter brevem hominum vitam, &c.* and a little after, num. 12. *Et sciendum quod Chartarum alia Regia, alia privatorum, & regiarum alia privata, alia communis, & alia universalis. Item privatorum alia de Feoffamento puro & simpliciter, alia de Feoffamento conditionali, & secundum omnia genera Feoffamentorum fieri potest. Item privatorum alia de recognitione pura vel conditionali: Item alia de quiete-clamantia; Item alia de confirmatione, &c.* and so through the whole Chapter. Britton likewise in his Thirty Ninth Chapter, divideth *Charters* into the *Charters* of the King, and *Charters* of private persons: *Charters* of the King are those, whereby the King passeth any Grant to any person or more, or to any Body-Politick, as a *Charter* of Exception, that a Man shall not be empannelled upon any Jury, *Kitchin, fol. 114. & fol. 177.*

Charter of Pardon, Whereby a Man is forgiven a Felony, or other Offence committed against the King's Crown and Dignity, *Bro. tit. Charter of Pardon. Charter of the Forest*, wherein the Laws of the Forest are comprised, Anno 9 H. 3. *Crompt. Jur. fol. 147. Papilla oculi*, par. 5. cap. 22. *Mantwood*, par. 1. of his *Forest Laws*, fol. 1. where he setteth down the *Charter* of *Canutus*, and fol. 11. where he sets down that which was made, 9 H. 3. with the *Charter* of the Forest which we use. *Skene* saith, That the Laws of the Forest in Scotland do agree, *De verbo Signif. verbo Venifon. Charter of Land*, *Brooke, eodem titulo*. That which we call a *Charter*, the Lombards in *libro Feudalibus*, call

call *Præceptum*, *Præceptionem*, *Hottoman*, *Verbo Præceptum in verbis feudatilibus*. Of these *Charters*, you have also a long discourse in *Electa*, lib. 3. cap. 14. who expoundeth every substantial part of a Deed of Gift particularly in Order. See *Magna Charta*.

Charter-Land, (*Terra per Chartam*) Is such as a Man holdeth by Charter, that is, by Evidence in Writing, otherwise called *Freehold*, Anno 19 H. 7. cap. 13. and *Kitchin*, fol. 86. And these in the Saxons time were called *Bocklands*, which *Lamb.* in his Explication of Saxon Words, verbo, *Terra ex scripto* saith, Was held with more commodious and easie Conditions than *Folkland* was, that is, Land held without Writing; and the reason is, because that was *Hereditaria*, libera atq; immunita, whereas *fundus sine scripto consuetum pensabat annuum atq; Officiorum quodam servitute est obligatus*; *Priorem vixi plerumq; nobilit atq; ingenui, posteriorem rustici fore & pagani possidebant*.---*Illam nos vulgo Free-hold, & per Chartam hanc ad voluntatem Domini appellamus*. Thus far *Mr. Lambard*.

Charter party, *Charta partita*, A Deed or Writing divided, is only a Paper of Indentures among Merchants and Seafaring-men, containing the Covenants and Agreements made between them touching their Merchandise and Maritime-Affairs, 32 H. 8. 14. 12 Car. 2. cap. 18. *Latches Rep.* fol. 225. *Bollo's Case*, and 2. *Inst.* fol. 637.

Chartis reddendis, Is a Writ which lies against him that hath *Charters* of *Feoffment* delivered him to be kept, and refuseth to deliver them, *Old Nat. Brev.* fol. 66. *Orig.* fol. 159.

Chase, *Chacea*, Cometh of the French Word *Chasser*, that is, *Señari Belluas*; It signifies in the Common-Law two things, First, As much as *Abus* in the Civil-Law, that is, a driving of Cattel to or from any place, as to *chase* a Distress to a Fortlet, *Old Nat. Brev.* fol. 45. Secondly, It is used for a Receipt for Deer, and Wild Beasts of a middle nature, between a Forest and a Park, being commonly less than a Forest, and not having so many Liberties as the Court of *Attachment*, *Swainmote*, and *Justice-seat*; and yet of a larger compass, and stored with greater diversity both of Keepers and Wild Beasts or Game than a Park. And *Crompton* in his *Jurisdiction*, fol. 148 saith, That a Forest cannot be in the hands of a Subject, but it forthwith loseth the Name, and becometh a *Chase*; Yet fol. 197. he saith, That a Subject may be Lord and Owner of a Forest, which, though it seem a contrariety, yet are both his sayings in some sort true; for a King may give or alienate a Forest to a Subject, yet so, as when it is once in a Subject, it loseth the true property of a Forest, because that the Courts called a *Justice-seat*, the *Swain mote*, and *Attachment* forthwith do vanish; none being able to make a Lord chief Justice In Eyre of the Forest but the King, as *Manwood* well sheweth in his *Forest-Laws*, cap. 3. & 4. and yet it may be granted in so large a manner, that there may be *Attachment* and *Swain-mote*, and a Court equivalent to a *Justice-seat*, as appeareth by him in the same Chapter, *sum.* 3. So that a *Chase* differeth from a Forest in this, because it may be in the hands of

a Subject, which a Forest in his proper and true nature cannot; and from a Park in that it is not inclosed, and hath not only a larger compass, and more store of Game, but of Keepers also and Officers. See *Forest*.

Chatell, See *Catal.*

Chauncemedley. See *Chance-medley*.

Chaunter, *Cantator*, A Singer in the Quire; 13. *Eliz.* cap. 20. At St. Dunstons in *Pembroke-shire*, the *Chaunter* is next the Bishop, for there is no Dean, *Cambd. Brian*.

Chauntry, *Cantaria* Is a Church, or Chappel, endowed with Lands or other yearly Revenue, for the Maintenance of one or more Priests daily to sing Mass for the Souls of the Donors; and such others as they do appoint; 37 H. 8. 4. 1 E. 6. 14. and 15. Car. cap. 9. Of these *Chantries* there were Forty-seven belonging to St. Paul's Church in London, for which, see *Dugdale's History* of that Church.

Chawdren of Sea-Coals, 9 H. 3. 20. See *Chaldron*.

Chetroll, Is a Roll or Book containing the Names of such as are Attendants in Pay to great Personages, as their Household-Servants, 19 Car. 2. cap. 1. It is otherwise called *The Clerk's Roll*, *Anno* 24 H. 8. 13. 3 H. 7. 13. And seems to take its Etymology from the *Eschequer*, which see.

Clerk of the Cheeke. See *Clerk*.

Chemini. See *Chimin*.

Chensers, Mentioned 27 H. 8. cap. 7. *Quere* if they be not such as pay Tribute or *Cense*; Chief-rent or Quit-rent, for so the French *Censier* signifies.

Cherfet. See *Churchfest*.

Chevaige, *Chevaigium*, Cometh of the French Word *Cheif*, id est, *caput*; It signifieth with us a Sum of Money paid by Villians to their Lords, in acknowledgment of their Villenage, Whereof *Bracton*, lib. 1. cap. 10. saith thus, *Chevaigium dicitur recognitio in signum subjectionis & Domini de capite suo*. It seems also to be used for a Sum of Money yearly given to one by another of Might and Power, for his Avowment, Maintenance and Perfection, as to their Head and Leader, *Lamb. Eirenarch.* lib. 2. cap. 3. writeth it *Cheivage*, or rather *Cheifage*. *Est apud Wallos Chevagii genus quod Amabr. vocant, Principi wallie pro maritandis filiabus olim ab omnibus (ut asserunt) hodie a quibusdam etiam liberis persolutum*, says the learned *Spelman* on the Word *Chevaigium*, see *Co. on Lit.* fol. 140.

Chevifance, Cometh of the French Word *Chevir*, that is, *Venir a cheife de quelque chose*, to come to the head or end of a Business. This Word is used 37 H. 8. cap. 9. 13 *Eliz.* cap. 3. & 8. 10 R. 2. cap. 1. & 3 H. 7. 5. for a Bargain or Contract. It signifies also an unlawful Contract in point of Usury, spoken of 21 Jac. 17. 12 Car. 2. cap. 13.

Chevitiz & Chevitz, Heads of Ploughed-Lands, *Novem Acres Terra cum Chevitis ad ipsas pertinentibus*, *Mon. Ang.* 2 Pat. Fol. 116.

Cheife. See *Capito*.

Cheifage. See *Chevaige*.

Cheife

Chief pledge, (*Plegius, vel. vas capitalis,*) 20 H. 4. cap. 8. For the better understanding of this Word, see *Borrow-head*.

Childwit, Is compounded of two Saxon Words, *Child* and *Wit*; the meaning of the former every one understands; for the latter, see *Bloodwit*. It signifies a power to take a Fine of your Bond-Woman gotten with Child without your consent; Within the Mannor of *Writite* in *Corn-Effex*, every reputed Father of a Bastard gotten there, pays to the Lord for a Fine, three shillings four pence, and the custom is there also called *Childwit*.

Chimin, French *Chemin*; Signifies in Law phrase a Way: It is divided into two sorts, The Kings High-Way, and a private Way, *Kitchin*, fol. 25. The Kings High-Way, *Chiminus Regius*, is that by which the Kings Subjects, and all under his Protection, have free Liberty to pass, though the property of the soyl of each side, where the Way lyeth, may perhaps belong to some private man. A Way private is that, by which one man or more have liberty to pass, either by Prescription or by Charter, through another Mans Ground. And this is divided into *Chimin in gross*, and *Chimin appendant*; *Kitchin*, fol. 117. *Chimin in gross* is that Way which a Man holdeth principally and solely in it self: *Chimin appendant* is that which a Man hath adjoynted to some other thing as appurtenant thereto. For Example, If a Man hire a Close or Pasture, and Covenant for Ingross and Egrefs to and from the said Close, through some other Ground, by which otherwise he cannot pass: Or *Chimin in gross* may be that, which the *Civilians* call *personal*; as when one Covenanteth for a Way through another Mans Ground for himself and his Heirs: *Chimin appendant* on the other side, may be that which they call *real*; as when a Man purchaseth a Way through another Mans ground, for such as do or shall dwell in this or that House for ever, or be Owners of such a Mannor. See *Co. on Lit.* fol. 56.

Chiminage, *Chiminagium*, Signifieth a Toll for Wayfarage through the Forest, *Cramp. Jur.* fol. 189. and *Mannors Forest Laws*, p. 86. The *Fewdists* call it *Pedagium*. See *Chimin*.

Chimney-Money, Otherwise called *Heart-money*, by 14 Car. 2. cap. 12. Every Fire-Heart and Stove, &c. (except such as pay not to Church and Poor) shall be chargeable with Two Shillings per Annum at Michaelmas and Lady-day to the King, &c. See *Smoke-money*, *Heart-money*, and *Fuage*.

Chirgemote, *Cirrgemot* or *Chirchgemot*, A Saxon Word signifying *Forum Ecclesiasticum*; Quousq; Chirgemot discordantes inveniet vel a more congreget, &c. Leg. H. 1. cap. 8. and 4 Inst. fol. 321.

Chirographer of Fines, *Chirographus Finium & Concordiarum*, Cometh of the Greek *χειρογραφος*, (a Compound of *χειρ*, *Manus*, a hand, and *γραφω*, *Scribo*, to Write,) so that in plain English, it is a Writing of the Hand: It signifies in the Common-Law, that Officer of the Common Pleas who ingrosseth Fines in that Court, acknowledged into a perpetual Record, after they be acknowledged and fully passed by those Officers by whom they are formerly exami-

ned, and that Writeth and Delivereth the Indentures of them unto the Party, 2 H. 3. cap. 8. and *West. Symbol. par. 2. tit. Fines*, fol. 114. & 129. F. N. B. fol. 147. This Officer also maketh two Indentures, one for the Buyer, another for the Seller, and makes one other Indented Piece, containing also the effect of the Fine, which he delivereth over to the *Custos Brevis*, that is called *The foot of the Fine*. The *Chirographer* also, or his Deputy, doth Proclaim all the Fines in the Court every Term, according to the Statute; and then repairing to the Office of the *Custos Brevis*, there indorseth the Proclamations upon the backside of the Foot thereof; and alway keepeth the Writ of Covenant, as also the Note of the Fine.

Chivage. See *Chevage*.

Chivalry, (*Servitium militare*) Cometh of the French *Chevalier*, and signifieth in our Common-Law a Tenure of Land by Knights Service: For the better understanding whereof, it is to be known, That there is no Land, but is holden mediately or immediately of the Crown by some Service, and therefore all our Free-Holds that are to us and our Heirs are called *Feuda* or *Feods*, Fees; as proceeding from the Benefit of the King, for some small yearly Rent, and the performance of such Services as originally were laid upon the Land at the Donation thereof; for as the King gave to the great Nobles, his immediate Tenants, large Possessions for ever, to hold of him for this or that Service or Rent; and they again in time parcelled out to such others as they liked the same Lands, for Rights and Services, as they thought good. And these Services are by *Littleton* divided into two sorts, *Chivalry* and *Service*, the former is martial and military, the other clownish and rusticall; *Chivalry* therefore is a tenure of Service, whereby the Tenant is bound to perform some noble or military Office unto his Lord; and is of two sorts, either Regal, that is, such as may hold only of the King, or such as may hold of a common person: That which may hold only of the King is properly called *Servitium* or *Sergeantia*, and is again divided into *grand* or *petit*, great or small; Great, commonly called *Grand Sergeantia*, is that where one holdeth Lands of the King by Service, which he ought to do in his own person; as to bear the Kings Banner or his Spear, or to lead his Host, or to find a Man at Arms to Fight within the four Seas, &c. *Littleton. Tit. Sergeantia. Petit Sergeantia*, is where a Man holdeth Land of the King, to yield him annually some small thing towards his Wars, as a Sword, Dagger, Bow, &c. *Littleton. Tit. Petit Sergeantia.* *Chivalry* that may hold of a common person, is called *Scutagium*, *Escuage*, that is, Service of the Shield, and this is either uncertain or certain. *Escuage* uncertain is likewise two-fold, First, Where the Tenant is bound to follow his Lord, going in Person, to the Kings Wars against his Enemies, either himself, or to send a sufficient Man in his place, there to be maintained at his Cost so many days, as were agreed upon between the Lord and his first Tenant at the granting of the Fee. And the days of such Service seem to have been rated by the quantity of the Land so holden; as if it extend to a whole Knights Fee, then the Tenant was bound to follow his Lord Forty Days, and a Knights Fee was so much Land,

Land, as in those days was accounted a sufficient living for a Knight, and that was 680 Acres as some hold, or as others 800, or 15 Pounds *per Annum*, *Cambd. Brit. pag. 110.* Sir Thomas Smith saith, *Census equestres* is forty pounds Revenue in Free Lands. But if it extend to half a Knights Fee, then the Tenant is bound to follow his Lord but twenty days; If to a fourth part, then ten days, *F. N. B. fol. 83, 84.* The other kind of this *Eſcuage uncertain* is called *Caſtleward*, where the Tenant by his Land is bound either by himself or some other, to defend a Castle as often as it shall come to his courſe. *Eſcuage certain*, is where the Tenant is set at a certain ſum of Money to be paid in lieu of ſuch uncertain Service; as that a man shall pay yearly for every Knights Fee twenty ſhillings, *Stow Annaſ. pag. 238.* for half a Knights Fee ten, or ſome like rate: And this Service, becauſe it is drawn to a certain Rent, groweth to be of a mixt nature; not meerly *Socage*, for that it ſinelleth not of the Plough, and yet *Socage* in effect, being now neither perſonal ſervice nor uncertain, *Liſ. tit. Socage.* This Tenure called *Chivalry*, hath other Conditions annex to it, as *Homage*, *Fealty*, *Wardſhip*, *Relief*, and *Marriage*, *Bract. lib. 2. cap. 35.* which what they ſignifie look in their places: *Chivalry* is either *general* or *ſpecial*, *Dyer, fol. 161. num. 47.* *General* ſeemeth to be, where it is only ſaid in the Feoffment, That the Tenant holdeth *per ſervitium militare*, without any ſpecification of *Sergeanty*, *Eſcuage*, &c. *Special*, That which is declared particularly, what kind of Knights-Service he holdeth by. But there is a great alteration made in theſe things by the Statute, made 12 Car. 2. cap. 24. which ſaith, All Tenures by Knights-Service of the King, or of any other perſon, Knights-Service *in capite* or *Socage*; *in capite* of the King, and the Fruits and Conſequences thereof hapned, or which ſhall or may happen or ariſe thereupon, or thereby, are taken away and diſcharged: And all Tenures of Houſes, Mannors, Lands, &c. ſhall be conſtrued and adjudged to be turned into Free and common *Socage*, &c.

Choral, *Choralis*, Is ſuch a perſon of whom Mr. Dugdale in his Hiſt. of St. Pauls Church, pag. 172. ſays, There were Six, whom he calls *Vicars Chorals*, belonging to that Church, and ſignifies one that by vertue of any of the Orders of Clergy, was in ancient time admitted to ſit and ſerve God in the Quire, which in Latine is termed *Chorus*.

Chofe, *Res*, In French a thing: It is in the Common-Law uſed with divers *Epithetes* worthy the interpretation; as *Chofe local* is ſuch a thing as is annexed to a place: For Example, a Mill is *Chofe local*, *Kitchin, fol. 18.* *Chofe tranſitory*, ſeemeth to be that thing which is moveable, and may be taken away, or caried from place to place. *Chofe in Action*, is a thing incorporeal, and only a Right, as an Annuity, an Obligation of Debt, a Covenant, or Voucher by Warranty, *Bro. tit. Chofe in Action*: And it ſeemeth, that *Chofe in Action* may be alſo called *Chofe in ſuſpence*, becauſe it hath no real exiſtence or being, neither can be properly ſaid to be in poſſeſſion, *Bro. ibid.*

Chop church, *Eccleſiarum permutatio*, Is a word uſed, 9 H. 6. 65. As for example, If two Parſons of ſeveral Churches change their Bene-

ſices, and reſign them into the hands of the Ordinary to that intent, and the Parſons make Preſentations accordingly, and one of them is admitted, inſtituted and inducted accordingly, and the other is admitted and inſtituted, but dyeth before Induction; the other Parſon ſhall not retain the Benefice in which he was inducted, for the change is not perfected, being not executed. By the fore-mentioned Book, it ſeems, in thoſe days a kind of Trade; yet Brooke in his *Abridgement* ſays, It was only permiſſible by Law; without peradventure it was a Nickname, for ſuch as uſed to change Benefices; for we to this preſent uſually ſay, *To chop and change.* See *Spelm. de conc. vol. 2. fol. 642.*

Church-reeve, Is the ſame with *Church-warden*; Reeve in the Saxon being as much as Guardian in the French, and ſignifies the Guardian or Overſeer of the Church; as *Shire-Reeve* is the Guardian of the Shire or County, and *Port-Reeve* of the Port or Haven, though afterwards it became a name of Office. The word is now out of uſe, but uſed by Chaucer, ſpeaking of the Jurisdiction of Archdeacons. See *Church-wardens*.

Church-wardens, *Eccleſiarum Gardiani* be Officers yearly choſen, by the conſent of the Miniſter and Pariſhioners; according to the cuſtom of every ſeveral place, to look to the Church, *Church-garj*, and ſuch things as belong to both, and to obſerve the behaviors of their Pariſhioners for ſuch faults as appertain to the Jurisdiction or Censure of the Court-Eccleſiaſtical. Theſe be a kind of Corporation, enabled by Law to ſue for any thing belonging to their Church, or Poor of their Pariſh. See *Lamb. Duty of Church-wardens*.

Churchſeet, *Ciriceſeat*, *Chirſet* or *Cureſcet*, A Saxon word mentioned in *Doomſday*, and interpreted by Mr. Agar, *Quaſi Semen Eccleſie*, Corn paid to the Church. *Fleta* calls it *Ciriceſed*, *lib. 1. cap. 47.* and thereof writes thus, It ſignifies a certain Meaſure of Whear, which in times paſt every Man on St. Marins day gave to the Holy Church as well in times of the Britains as of the Engliſh; yet many great perſons after the coming of the Romans gave that Contribution, according to the ancient Law of Muſes, in the name of Firſt-fruits; as in the Writ of King Canutus ſent to the Pope is contained, in which they call that Contribution, *Church-ſed*, as one would ſay *Church-ſeed*, *Seld. Hiſt. Tyber, pag. 216.*

Cinnamon, *Cinnamomum*, Is a Tree whereof the Bark is known to be pleaſant, and a comfortable and medicinal Spice, which you have deſcribed in *Gerards Herbal, lib. 3. cap. 142.* This is reckoned among garbleable Spices, *Anno 1. Ja. cap. 19.*

Cinque Ports, *Quinq; Portus*, Be thoſe ſpecial Havens that lie toward France, and therefore have been thought fit by our Kings from time to time to be ſuch as ought moſt vigilantly be guarded againſt Invaſion: In which reſpect the places where they be, have an eſpecial Governor or Keeper called, by his Office, *Lord Warden of the Cinque Ports*, and divers Priviledges granted unto them, as a particular Jurisdiction, their Warden having the Authority of an Admiral among them, and ſending out Writs in his own

Name,

Name. *Crompton* in his *Jurisdictiones*, fol. 28. nameth *Hastings*, *Rumney*, *Rye*, *Dover*, *Sandwich*, *Winchelsea* and *Hythe*, whereof some, because the number exceedeth five, must either be added to the first Institution by some later Grant, or be accounted as Appendants to some of the rest. See *Gardeine of the Cinque Ports*, and the Stat. 32 H. 8. cap. 48. See *Quinq; Portus*, and 4. *Inst.* fol. 222.

Cippus. A pair of Stocks to put Offenders in, --- *Habeant, necnon Cippos & conclusoria in singulis villis, ad correctionem delinquentium*, Mon. Ang. 2 par. fol. 349. a.

Circuitry of Action, (Circuitus Actionis) Is when an Action is rightfully brought for a Duty, but yet about the Bush, as it were, for that it might have been as well otherwise answered and determined, and the Suit saved; and because the same Action is more than needful, it is called *Circuitry of Action*; as if a Man grant a Rent-charge of ten Pounds out of his Mannor of *Dale*, and after the Grantee disseises the Grantor of the same Mannor, and he brings an Assise, and recovers the Land, and twenty Pounds damages, which twenty Pounds being paid, the Grantee of the Rent sues his Action for ten Pound of the Rent due during the time of his Disseisin, which if no Disseisin had been, he must have had. This is called *Circuitry of Action*, because it might have been more shortly answered; for whereas the Grantor shall receive 20 li. Damages, and pay 10 li. Rent, he might have received but the 10 li. only for the Damages, and the Grantee might have cut off, and kept back the other ten pounds in his hands, by way of detainer for his Rent, and so thereby might have saved his Action.

Circumspecte Agatis, Is the Title of a Statute made 13 E. 1. *Anno Domini*, 1285. prescribing some Cases to the Judges, wherein the Kings Prohibition lies not, *Co. lib. 7. fol. 44. lib. 5. fol. 67. and 2 par. Inst. fol. 487.*

Circumstantibus, In English *By-standers*, Is a word of Art, signifying the supply or making up of the number of Jurors (if any impannell'd do not appear, or appearing, be challenged by either party) by adding to them so many other of those that are present or standing by, as will serve the turn 35 H. 8. cap. 6. 5. *Eliz. ca. 25.*

Cititseat. See *Churchesseat*.

City, Civitas, Is such a Town-Corporate as hath a Bishop and a Cathedral-Church, of which it is said thus, The same place is in Latine called *Urbs*, --- *Civitas*, and *Oppidum*: It is named *Civitas*, in regard it is governed in Justice, and order of Magistracy. *Oppidum*, for that it contains a great number of Inhabitants; and *Urbs*, because it is in due form begirt about with Walls. Yet *Crompton* in his *Jurisdictiones*, where he reckoneth up the Cities, leaveth out *Ely*, although it have a Bishop and Cathedral-Church, and putteth in *Westminster*, though it hath at present no Bishop. And *Anno 35 Eliz. cap. 6. Westminster* is called a City. And 27 *Eliz. cap. 5.* of the Statutes not Printed, it is alternatively termed a City or Borow. It appeareth by the Statute 35 H. 8. 10. that there was a Bishop of *Westminster*, though now but a Deanry, and entituled *The Dean and Chapter of the Collegiate Church of St. Peter in Westminster Civitas* according to *Arifstotele*, li. *Politicoz. cap. 1* is defined to be a certain or uniform Government

of the Inhabitants, *Et Cesar, Civitatem vocat, populum eodem jure utentem*, *Cambd. Brit. pag. 310.* But this is the general definition of a Commonwealth, and not of a City at the least, as we now a dayes take it. *Cassanau in Consuetud. Burg. pag. 15.* saith, That *France* hath within the Territories of it one hundred and four Cities, and giveth reason of this his saying, because there be so many Seats of Archbishops and Bishops. Sir *Edward Coke* makes *Cambridge* a City, *Mich. 7 R. 1. Rot. 1.* yet there is no mention that it ever was an Episcopal See. *Co. on Lst. fol. 109.* and by the Stat. 11 H. 7. cap. 4. It is called only *The Town of Cambridge*.

Clacke, As to *Clacke*, force and *Bard*, alias *Beard Wools*, *Anno 8 H. 6. cap. 22.* whereof the first, viz. to *Clacke Wool*, is to cut off the Sheeps Mark, which maketh it to weigh less, and so yield the less Custome to the King: To *force Wool*, is to clip off the upper and more Hairy part of it. To *bard* or *beard* it, is to cut off the Head and Neck from the rest of the Fleecce.

Clayme, Clameum, Is a Challenge of Interest in any thing that is in the possession of another, or at the least out of his own, as *claims* by charter, *claims* by descent, *O. d. Nat. Brev. fol. 11.* *Si dominus infra annum clameum qualitercunq; apposerit, Bracl. lib. 1. cap. 10.* See the definition, and divers sorts of *clames* in *Plowden*, fol. 359. *Stowe's Case.*

Clamea admittenda in Itinere per Atturatum. Is a Writ whereby the King Commands the Justices in *Eyre* to admit of ones *claims* by Attorneys, that is employed in the Kings Service, and cannot come in his own person, *Reg. Orig. fol. 19.*

Clayboard, 35 *Eliz. cap. 11.* Is board cut in order to make Cask or Vessels.

Clarenius. See *Herald*.

Claves Intulz, Is a term of Art used in the Use of Man, for those twelve to whom all ambiguous and weighty Cases are referred.

Clausum tregit, Signifies as much as an *Action of Trespass*, and so called, because in the Writ such a one is summoned to answer *quare clausum fregit*, that is, why he did such a Trespass.

Clausum Pasche, *Stat. Westm. 1.* In *crastino clausi Pasche*, or in *crastino octavi Pasche*, which is the same, that is the Morrow of the *Vias* of Easter, 2 par. *Inst. fol. 157.* It is called *Clausum Pasche*, because *Pasche claudat*.

Clausura Heye, *Johannes Stanley Ar. clamat quod ipse & heredes sui sint quieti de clausura Heye de Maulesfield scil. clausura unius roda terra circiter hayam pradi.* *Rot. plac. in Itinere apud Cestriam, Anno 14 H. 7.*

Clergy, (Clerus, Clericatus) Is diversly taken, sometimes for the whole number of those that are *de clero Domini*, of the Lords Lot or Share, as the Tribe of *Levi* was in *Judea*, sometime for a Plea to an Indictment or an Appeal, and is by *Stamf. pl. cor. lib. 2. cap. 41.* thus defined. *Clergy* is an ancient liberty of the Church, which hath been confirmed by divers Parliaments, and is, when a Priest, or one within Orders, is arraigned of Felony before a Secular Judge, he may pray is *Clergy*, which is as much as if he prayed to be delivered

delivered to his Ordinary, to purge himself of the Offence objected: And this might be done in *Co. lib. 4. fol. 46. a.* This liberty is mentioned in *Articuli cleri, 9 E. 2. cap. 15.* and what persons might have their Clergy, and what not, see *Stamf. pl. cor. lib. 2. cap. 42. 43.* Howbeit there be many Statutes made since he writ; whereby the benefit of Clergy is abridged: As *Anno 8 Eliz. cap. 4. Anno 14 Eliz. 5. 18 Eliz. 4. 6, 7. 23 Eliz. 2. 29 Eliz. 2. 31 Eliz. 12. 39 Eliz. 9. 15.* and divers other since. Of this, see *Cromptons Justice of Peace, fol. 102, 103, 104, 105.* and *Lamberts Eiren. lib. 4. cap. 14. pag. 543.* And here note, That the ancient course of the Law in this point of Clergy is much altered; for by the Statute, *18 Eli. ca. 7.* Clerks be no more delivered to their Ordinaries to be purged, but now every man, though not within Orders, is put to read at the Bar, being found Guilty, and convicted of such Felony as this Benefit is granted for, and so burnt in the Hand, and set free for the first time, if the Ordinaries Commissioner, or Deputy, standing by, do say, *Legit ut clericus*, or otherwise suffereth death for his Transgression.

Clerico capto per Statutum Mercatorum, *Et.* Is a Writ directed to the Bishop, for the delivery of a Clerk out of Prison that is in custody upon the breach of a *Statute-Merchants*, *Reg. Orig. fol. 147.*

Clerico admittendo, Is a Writ directed to the Bishop, for the admitting of a Clerk to a Benefice upon a *Ne admittas*, tried and found for the Party that procureth the Writ, *Reg. Orig. fol. 91.*

Clerico convicto commissio Gaolæ in defectu ordinarii deliberando, Et. Is a Writ for the delivery of a Clerk to his Ordinary, that formerly was convicted of Felony, by reason his Ordinary did not challenge him according to the Privileges of Clerks, *Reg. Orig. fol. 69. a.*

Clerico infra factos Ordines constituto non Eligendo in Officium, Is a Writ directed to the Bayliffs, &c. That have thrust a Bayliff or Beadle upon one in Holy Orders, charging them to release him again, *Reg. Orig. fol. 143. a.*

Clerk, Clericus, hath two significations, one as it is in the Title of him that belongeth to the holy Ministry of the Church, that is (as we reckon) either Minister or Deacon, or what other Degree or dignity soever; though according to former times not only *Sacerdotes & Diaconi*, but also *Subdiaconi, Leitores, Acolybi, Exorcista, & Officarii* were within this account, as they be at this day, where the Canon-Law hath full power. And in this signification a Clerk is either Religious (otherwise called regular) or Secular, *Anno 41 H. 4. ca. 12.* The other signification of this word noteth those that by their Function, or course of Life, practise their Pen in any Court, or otherwise; as namely, the Clerk of the Rolls of Parliament, Clerks of the Chancery, and such like, whose peculiar Offices shall be set in order.

Clerk of the Acts, Is an Officer of the Navy, who receives and enters the Commissions and Warrants of the Lord Admiral, and Registers the Acts and Orders of the Commissioners

of the Navy, and is mentioned in the Statute, *16 Car. 9. 5.*

Clerk of the Parliament Rolls, Clericus Rotulorum Parliamenti, Is he that recordeth all things done in the High Court of Parliament, and engrosseth them fairly into Parchment Rolls, for their better keeping to Posterity. Of these there be two, one of the Higher, the other of the Lower, or House of Commons, *Crompt. Jurisd. fol. 4. & 8. Smith de Rep. Ang. pag. 38.* See also *Vowels Booke*, touching *The Order of Parliament.*

Clerk of the Crown in Chancery, Clericus Corone in Cancelleria, Is an Officer there, that by himself, or his Deputy, is continually to attend the Lord Chancellor, or Lord Keeper, for special Matters of State, by Commission, or the like, either immediately from His Majesty, or by Order of his Council, as well ordinary as extraordinary, viz. Commissions of Lieutenancy, of Justices-Errant, of Assise, of Oyer and Terminer, of Gaol-delivery, of the Peace, and such like, with their Writs of Association, and *Dedimus potestatem*, for taking of Oaths. Also all general Pardons upon Grants of them at the Kings Coronation, or at a Parliament; the Writs of Parliament, with the Names of Knights and Burghesses, are returned into his Office. He hath also the making of all special Pardons, and Writs of Execution upon Bonds of *Statute-Statple* forfeited, which was annexed to his Office in the Reign of Queen Mary, in consideration of his continual and chargeable Attendance; both these being before common for every Cursitor or Clerk of Court to make.

Clerk of the Crown, Clericus Corone, Is a Clerk or Officer in the Kings Bench, whose business is to read, frame and record all Indictments against Traitors, Felons, and other Offenders there arraigned upon any publick Crime. He is otherwise termed *Clerk of the Crown Office.* And *Anno 2 H. 4. cap. 10.* he is called *Clerk of the Crown* in the Kings Bench.

Clerk of the Exchequer, Clericus Exchequerum, Is a Clerk belonging to the Exchequer, who every Term receiveth the *Escheat* out of the Lords Treasurers Remembrancers Office, and writeth them out to be Levied on the Kings. He also maketh Schedules for such Sums *escheated* as are to be discharged.

Clerk of Assise, Clericus Assise, Is he that writeth all things judicially done by the Justices or Assise in their Circuits, *Crompt. Jurisd. fol. 227.*

Clerk of the Bell, Clericus Pellii, Is a Clerk belonging to the Exchequer, whose Office is to enter every Tellers Bill into a Parchment-Roll called *Pellii receptorum*, and also to make another Roll of Payments, which is called *Pellii exituum*, wherein he setteth down by what Warrant the Money was paid.

Clerk of the Warrants, Clericus Warrantorum, Is an Officer belonging to the Court of Common-Pleas, which entrench all Warrants of Attorneys for Plaintiff and Defendant, and inrolleth all Deeds of Indentures of Bargain and Sale, which are acknowledged in Court or before any Judges out of the Court. And he doth citreat into the Exchequer all Issues, Fines and

and Amerciaments, which grow due to the King any way in that Court, and hath a standing Fee of ten pounds of the King, for making the same Estreats. See *Fitzb. Nat. Brev. fol. 76.*

Clerk of the Petty Bag, *Clericus Parva Bagia*, Is an Officer of the Chancery, of which sort there be three, and the Master of the Rolls their chief. Their Office is to Record the Return of all Inquisitions out of every Shire, all Liveries granted in the Court of Wards, all *Ouster le maynes*, to make all Patents of Customers, Gaugers, Controulers and Aulnegers, all *conge de officers* for Bishops, all *Liberates* upon extents of *Statute-Staple*, the recovery of Recognisances forfeited, and all *Elegits* upon them; the Summons of the Nobility, Clergy and Burgeses to the Parliament: Commissions directed to Knights and other of every Shire, for Selling the Subsidies; Writs for the nomination of Collectors for the Fifteenths, and all Traverses upon any Office, Bill, or otherwise, and to receive the Money due to the King for the same. This Officer is mentioned 33 H. 8. cap. 22.

Clerk of the Kings Great Wardrobe, *Clericus magna Gardroba Regis*, Is an Officer of the Kings House, that keepeth an account, or Inventory, in Writing of all things belonging to the Kings Wardrobe. This Officer is mentioned 1 E. 4. cap. 1.

Clerk of the Market, *Clericus Mercati*, Is an Officer of the Kings House, Anno 1 E. 4. cap. 1. and 13 R. 2. cap. 4. whose duty is to take charge of the Kings Measures, and to keep the Standards of them, that is, the Examples of all the Measures that ought to be through the Land; as of all Ells, Yards, Lagens, Quarts, Pottles, Gallons, &c. Of Weights, Bushels, and such like; and to see that all Measures in every place be answerable unto the said Standard, *Fleta, lib. 2. cap. 8, 9, 10, 11, 12.* Of which Office, as also of our diversity of *Weights and Measures*, you may there find a Treatise worth the reading. Britton also in his Thirtieth Chapter, saith in the Kings Person to this effect, *We will that none have Measures in the Realm, but we our selves, but that every man take his Measures and Weights from our Standards; and so goeth on with a Treatise of this Matter, that well shows the ancient Law and Practice in this point: Touching this Officers Duty, you have also a good Statute, Anno 13. R. 3. 2. cap. 4.*

Clerk of the Kings Silver, *Clericus Argenti Regis*, Is an Officer belonging to the Court of Common-Pleas, to whom every Fine is brought, after it hath been with the *Custos Brevis*, and by whom the effect of the Writ of Covenant is entred into a Paper-Book, and according to that Note, all the Fines of that Term are also Recorded in the Rolls of the Court, and his Entry is in this Form. He putteth the Shire over the Margin, and then saith, A. B. *Dat Domino Regi dimidium Marca*, (or more, according to the value) *pro licentia Concordandi C. cum C. D. pro talibus terris in tali villa & habet Chirographum per pacem admissum, &c.*

Clerk of the Peace, *Clericus Pacis*, Is an Officer belonging to the Sessions of the Peace: His Duty is in the Sessions, to read Indictments, to enroll the Acts, and draw the Proccesse; to Re-

cord the Proclamations of Rates for Servants Wages, to enrol the Discharge of Apprentices, to keep the Counterpart of the Indenture of Armour, to keep the Register-Book of Licences given to Badgers and Laders of Corn, and of those that are licensed to shoot in Guns, and to certify into the Kings Bench Transcripts of Indictments, Outlawries, Attainders and Convictions had before the Justices of the Peace within the time limited by Statute, *Lamb. Eirenar. lib. 4. cap. 3. fol. 379.*

Clerk of the Signet, *Clericus Signeti*, Is an Officer continually attendant upon his Majesties Principal Secretary, who always hath the Custody of the *Privy Signet*, as well for Sealing His Majesties private Letters, as also such Grants as pass his Majesties Hand by Bill signed. Of these there be four that attend in their course, and have their Dyet at the Secretaries Table; more largely you may read of their Office in the Statute made Anno 27 H. 8. cap. 11.

Clerk of the Privy-Seal, *Clericus Privati Sigilli*, Is an Officer (whereof there be four) that attendeth the Lord Keeper of the *Privy-Seal*; or if there be none such, upon the Principal Secretary, Writing and making out all things that be sent by Warrant from the Signet to the *Privy-Seal*; and are to be passed to the *Great Seal*: As also to make out (as they are termed) *Privy-Seals* upon any special occasion of His Majesties Affairs; as for loan of Money, and such like. Of this Office and Function, you may read 27 H. 8. 11. He that now is called *The Lord Keeper of the Privy-Seal*, seemeth in ancient time to have been called *The Clerk of the Privy-Seal*, and to have been reckoned in the number of the great Officers in the Realm. Read the Statute, 12 R. 2. cap. 11.

Clerk of the Juries, or Jurata Writs, *Clericus Juratorum*, Is an Officer belonging to the Court of Common-Pleas, which maketh out the Writs called *Habeas Corpora*, & *Distingas*, for appearance of the Jury either in Court, or at Assises, after that the Jury or Panel is returned upon the *Venire facias*. He entreteth also into the Rolls the awarding of these Writs, and maketh all the Continuances from the going out of the *Habeas Corpora* to the Verdict.

Clerk of the Pipe, *Clericus Pipa*, Belongs to the Exchequer, who having all Accounts and Debts due to the King delivered and drawn out of the Remembrancers Office, chargeth them down into the great Roll; who also Writeth Summons to the Sheriff to Levy the said Debts upon the Goods and Chattels of the Debtors. And if they have no Goods, then doth he draw them down to the Lord Treasurers Remembrancer, to write Estreats against their Lands. The ancient Revenue of the Crown remaineth in charge before him, and he seeth the same answered by the Farmers and Sheriffs to the King. He maketh a Charge to all Sheriffs, of their Summons of the Pipe and Green-wax, and seeth it answered upon their accounts. He hath the drawing and ingrossing of all Leaves of the Kings Land.

Clerk of the Hamper or Hanaper, *Clericus Hanaperii*, Is an Officer in the Chancery, Anno 2 E. 4. Cap. 1. otherwise called *Warden*

Warden of the Hamper in the same Statute, whose business is to receive all Money due to the Kings Majesty, for the Seals of Charters, Patents, Commissions and Writs; as also Fees due to the Officers for enrolling and examining the same. He is tyed to attendance on the Lord Chancellor, or Lord Keeper, daily in the Term-time, and at all times of Sealing, having with him Leather Bags, in which are put all Charters, &c. after they be Sealed by the Lord Chancellor, and those Bags being Sealed up with the Lord Chancellors Private Seal, are to be delivered to the *Controulor of the Hamper*, who, upon receipt of them, doth, as you may read in his Office. This *Hamper* represented a Shadow of that which the Romans termed *Fiscum*, that contained the Emperors Treasure.

Clerk of the Pleas, *Clericus Placitorum*, Is an Officer in the Exchequer, in whose Office the Officers of the Court, upon special privilege belonging to them, ought to sue, or be sued, upon any Action.

Clerk of the Treasury, *Clericus Thesauraria*, Belongs to the Common-Pleas, and hath the Charge of keeping the Records of the Court, and maketh out all the Records of *Nisi prius*, hath the Fees due for all Searches, and hath the certifying of all Records into the Kings Bench, when a Writ of Error is brought, and maketh out all Writs of *Supersedeas de non molestando*, which are granted for the Defendants, while the Writ of Error hangeth. Also he maketh all Exemplifications of Records being in the Treasury. He is taken to be the Servant to the chief Justice, and removeable at his pleasure, whereas all other Officers are for term of Life. There is also a Secondary, or Under-Clerk, of the Treasury for assistance, which hath some allowances. There is likewise an Under-Keeper, who always keepeth one Key of the Treasury Door, and the chief Clerk of the Secondary another, so that one cannot go in without the other.

Clerk of the Essoyns, *Clericus Essoniorum*, Is an Officer belonging to the Court of Common-Pleas, who only keepeth the *Essoyne-Roll*, and hath for Entering every *Essoyne* six pence, and for every Exception to bar the *Essoyne*, in case where the Party hath omitted his time, six pence. He hath also the providing of Parchment, and cutting it out into Rolls, and marking the numbers upon them, and the delivery out of all the Rolls to every Officer, and the Receiving of them again when they be written, and the binding and making up of the whole bundles of every Term; and this he doth as Servant to the chief Justice, for the chief Justice is at charge for all the Parchment of all the Rolls.

Clerk of the Outlawries, *Clericus Outlawiarum*, Is an Officer belonging to the Court of Common-Pleas, being only the Servant, or Deputy, to the King's Attorney-General, for making out the Writs of *Capias Outlatum* after Outlawry; and the Kings Attorneys name is to every one of those Writs. And whereas Seven pence is paid for the Seal of every other Writ betwixt Party and Party, there is but a Penny paid for the Seal of this, because it goeth out at the King's Suit.

Clerk of the Sewers, *Clericus Surrarum*, Is an Officer belonging to the Commissioners of the Sewers, writing all things that they do by vertue of their Commission; for which, see *Sewers*. And see the Stat of 13 Eliz. cap. 9.

Clerk Controular of the Kings House, Whereof there be two, is an Officer in Court, that hath Place and Seat in the *Counting-House*, and authority to allow or disallow the Charges and Demands of Pursuivants and Messengers of the *Green-Cloth*, Purveyors, or the like. He hath also the Over-sight and Controlling of all Defaults, Defects, and Miscarriages of any the Interior Officers, and as before-mentioned, to sit in the *Counting-House* with the superior Officers, viz. the Lord Steward, Treasurer, Controulor and Cofferer, either for correcting or bettering things out of Order, with several other Matters. This Officer you have mentioned, 33 Hen. 8. cap. 12.

Clerk of the Michils or Nihilis, *Clericus Nihilorum*, Is an Officer in the Exchequer, that maketh a Roll of all such Sums as are *Nihilis* by the Sheriffs upon their Estreats of *Green-Wax*, and delivereth the same into the Lord Treasurers Remembrancers-Office, to have execution done upon it for the King.

Clerk of the Check, Is an Officer in Court so called, because he hath the Check and Controlment of the Yeomen of the Guard, and all other ordinary Yeomen or Ushers belonging either to the King, Queen or Prince, either giving leave, and allowing their absences or defects in attendance, or diminishing their Wages for the same. He also rightly by himself, or Deputy, taketh the view of those that are to Watch in the Court, and hath the setting of the Watch. This Officer is mentioned Anno 33 H. 8. cap. 12. There is an Officer of the same name in the Kings Navy, spoken of 19 Car. 2. cap. 1.

Clerk-Marshal of the Kings House, seems to be an Officer that attends the Marshal in his Court, and Recordeth all his proceedings, 33 H. 8. 12.

Closh, Is an unlawful Game forbidden by the Statute, made in the seventeenth year of E. 4. cap. 3. and is inhibited also by the Statute of 33 H. 8. cap. 9. but there it is more properly called *Clash*; for it is the throwing of a Bowl at Nine-Pins of Wood, or nine Shank-bones of an Ox or Horse; and it is now ordinarily called *Kailes* or *Nine-Pins*, *Termes de la Ley*.

Cloth of Ray, Anno 27 E. 3. Stat. 1. cap. 4.

Clobe, Is the two and thirtieth part of a Weight of Cheefe, that is Eight Pound, 9 H. 6. cap. 8.

Cloves, *Caryophylli*, are a Spice known by sight to every Man; they are Flowers of a Tree gathered and hardened by the Sun: Of their nature, you may read in *Gerards Herbal*, lib. 3. cap. 144. This is comprised among such Spices as are to be garbled, 1 Jac. 19.

Clough, A Valley, *Doomsday-Book*.

Catherings, An Exaction or Tribute in Ireland. See *Bonaght*.

Cocket or Coket, *Cocketum*, Is a Seal appertaining

taining to the Kings Custom-house, *Reg. Orig. fol. 192.* and also a Scroll of Parchment Sealed and delivered by the Officers of the Custom-house to Merchants, as a warrant that their Merchandise be Customed, *11 H. 6. 16.* which Parchment is otherwise called *Litera de Coketto*, or *Litera testimonialis de Coketto*, *Reg. Orig. fol. 179.* So is the word used, *5 & 6 E. 6. cap. 14.* and *14 E. 3. Stat. 1. cap. 21.* This word is also used for distinction of Bread, in the Statutes of *Bread and Ale*, made *51 H. 3.* where you have mention made of *Bread-Coket*, *Wassel-Bread*, *Bread of Trete*, and *Bread of Common-Wheat*.

Codicil, *Codicillus*, Is a Schedule or Supplement to a Will, or other Writing; it is used as an addition to a Testament, when any thing is omitted, which the Testator would add, explain, alter or retract, and is of the same nature with a Testament, but that it is without an Executor, *Swinburne, pag. 1. sect 5.* And *Touchstone of Wills, pag. 21. 22.*

Coffee, Mentioned *15 Car. 2. cap. 11.* A kind of Drink, originally used among the *Turks* and *Persians*, and from them brought to us: It is thick, blackish and bitter, made from Berries of that Nature and Name, and now greceably in use as a wholesome Liquor.

Cofferer of the Kings Household, Is a principal Officer of His Majesties Court, next under the Controller, that in the Counting-House, and elsewhere at other times hath a special Charge and Over-sight of other Officers of the House for their good Demeanor and Carriage in their Offices, to all which he pays their Wages. He is made mention of *39 Eliz. cap. 7.*

Cofez, *Cotages*. See *Doomsday Book*, thus interpreted by Mr. *Agar*.

Cogs, *Cogones*, A kind of Boats or Vessels used in the River *Ouse* and *Humber*, they are mentioned *23 H. 8. cap. 18.* See *Mat. Westm. Anno 1666.*

Cognitione. See *Cofinage*.

Cognitor or **Conusor**, Is he that passeth or acknowledgeth a Fine of Lands or Tenements to another. *Cognissee* or *Conussee* is he to whom the Fine is acknowledged, *West. Symb. part. 2. tit. Fines, sect. 2. 32 H. 8. 5.*

Cognisance, *Id est, Intelligentia*, *Cognitio*, with us is used diversly, sometimes signifying a Badge on a Serving-mans Sleeve, whereby he is discerned to belong to this or that Master. Sometime an acknowledgement of a Fine or Confession of a thing done, as *Cognoscens lauro*, *Bracton, lib. 3. tract. 2. cap. 3. 20. 32. Cognoscere se ad Villanum*, *Id. lib. 4. tract. 3. cap. 16.* As also to make Cognisance of taking a Distress, sometime as an Audience or hearing of a Matter judicially, as to tak: *Cognisance*. Sometime a Power or Jurisdiction, as Cognisance of Pleas, is an ability to call a Cause or Plea out of another Court, which no Man can do but the King, except he can shew Charters for it, *Manwood, cap. 3. num. 2.* See the *Terms of the Law*, and *New Book of Entries*, verbo *Conusance*.

Cognitionibus mittendis, Is a Writ to a Justice or other that hath Power to take a Fine, who having taken acknowledgment thereof, de-

ferreth to certify it into the Court of Common-Pleas, commanding him to certify it, *Reg. Orig. 68. b.*

Cogware, Seems to be a sort of course Clothes made in the North of *England*, mentioned in the Stat. *13 R. 2. cap. 10.* where there is mention also of *Cogmen*, that is, Buyers of, Makers or Dealers in such Cogware.

Coyse, A Title given to *Sergeants at Law*, who are called *Sergeants of the Coyse*; from the *Lawn Coyse* they wear on their Heads under their Cap when they are created, and always after. See *Sergeant*.

Coyne, *Cuneus vel cuna*, Seemeth to come from the French (*Coigne*) *Angulus* a Corner, which probably verifieth the Opinion of such as hold the ancientest sort of *Coyne* to be cornered, and not round, of this Lawyers Substantive *Cuna*, comes their Verb *Cunare* to *coyne*, *Crompt. Just of Peace, fol. 220.*

Coynage, Besides the general signification, it hath relating to Money, is used for the weighing and stamping of Tinne after it is cast and wrought, *Cambden, Brit. fol. 136.* and *11 H. 7. cap. 4.* Some Authors write it *Cunage*.

Coket. See *Cocket*.

Coleberti, *Coleberti*, Are Tenants in Free-Soilage, *Doomsday-Book*, or such as being Villains were manumitted.

Coliander-seed, or rather **Coriander-seed**, *Semen Coriandri*, Is the Seed of an Herb so called, medicinable and wholesome for divers good purposes, which see in *Gerards Herball, lib. 2. cap. 379.* It is numbred among the Drugs that are to be garbled, *Anno 1 Jac. cap. 19.*

Collateral, *Collateralis*, Cometh of the Latine *Laterale*, that which hangeth by the side: And in the legal Sense it differs not from the same acceptation; for *Collateral Assurance* is that which is made over and beside the Deed it self. For example, If a Man Covenant with another, and enter Bond for the performance of his Covenant, the Bond is termed *Collateral assurance*, because it is external, and without the nature and essence of the Covenant. And *Crompt. Jur. fol. 185.* saith, That to be subject to the feeding of the Kings Deer, is *collateral* to the soyl within the Forest. In like manner we say, That the liberty to pitch Booths or Standings for a Fair in another Mans Ground, is *collateral* to the Ground. The private Woods of a common person within a Forest, may not be cut without the Kings Licence; for it is a Prerogative *collateral* to the soyl, *Manwood Forest Laws, cap. 8. num. 2.*

Collateral Warranty. See *Warranty*.

Collation of Benefice, *Collatio Beneficii*, Signifies properly the bestowing of a Benefice by the Bishop that hath it in his own Gift or Patronage, and differeth from Institution in this, that Institution into a Benefice is performed by the Bishop, at the motion or presentation of another who is the Patron of the same, or hath the Patrons right for the time; yet is *collation* used for Presentation, *25 E. 3. Stat. 6.* And there is a Writ in the Register, *31. b.* called *De Collatione facta uni post mortem alterius*, &c. directed to the Justices of the Common-Pleas, commanding them to direct their Writ to the Bishop, for the admitting

ting of a Clerk in the place of another, presented by the King, who dyed during the Suit between the King and the Bishops Clerk, for Judgment once passed for the Kings Clerk, and he dying before he be admitted, the King may give his Presentation to another.

Collatione Heremitarum, Is a Writ whereby the King conterrth the Keeping of an Hermitage upon a Clerk, *Reg. Orig. fol. 303* 308.

Collusion, *Collusio*, Is in our Common-Law a deceitful Agreement or Compact between two or more, for the one Parly to bring an Action against the other to some evil purpose, as to defraud a third of his Right, &c. See the *Terms of the Law*, fol. 142. and *Bro. tit. Collusion*. See also the Case of *Collusion*, *Reg. Orig. fol. 179. a. West. 2. cap. 32.* and *8 H. 6. cap. 26.* which gives the *Quare Fuit*, and inquiry in such Cases: Gifts made by *Collusion*, see *50 E. 3. cap. 6.*

Colour, *Color*, Signifies in a legal acceptation a probable Plea, but in truth false, and hath this end, to draw the Tryal of the Cause from the Jury to the Judges. As for example, *A.* brings an Assise of Land against *B.* and *B.* saith, He himself did Let the same Land to one *C.* for term of Life, and afterwards did grant the Reversion to *A.* the Demandant; and afterward *C.* the Tenant for term of Life died, after whose decease *A.* the Demandant claiming the Reversion by force of the Grant (whereto *C.* the Tenant did never Attorn) entred, upon whom *B.* entred, against whom *A.* for that entry brings this Assise, &c. This is a good *Colour*, because the common People think the Land will pass by the Grant without Attornment, where indeed it will not pass, &c. Also in an Action of Trespass, *color* must be given, of which there are an infinite number, take this one for a Patern of the rest. In an Action of Trespass, for taking away the Plaintiffs Beasts, the Defendant saith, That before the Plaintiff had any thing in them, he himself was possessed of them as of his proper Goods, and delivered them to *A.* to deliver to him again, when, &c. and *A.* gave them to the Plaintiff, and the Plaintiff supposing the property to be in *A.* at the time of the Gift, took them, and the Defendant took them from the Plaintiff, whereupon the Plaintiff brings an Action, that is, a good *Color* and a good Plea. See more hercof *Doct. and Student*, lib. 2. cap. 13. and *Broke*, tit. *Color in Assise, Trespass, &c.* fol. 104.

Color of Office, *Color Officii*, Is always taken in the worst part, and signifies an Act evilly done by the countenance of an Office, and it bears a dissembling Face of the Right of an Office, whereas the Office is but a Vail to the Falshood; and the thing is grounded upon Vice, and the Office is as a shadow to it, it is but *colore Officii*, when as *virtute Officii*, by vertue of the Office, is taken always in the best part; and where the Office is the just cause of the thing, and the thing is pursuing the Office, *Plowd. in Dive and Manningham's Case*, fol. 64. a.

Combat, *Duellum*, Is a French Word signifying the same with *certamen*, *pralium*, *pugna*, and in our ancient Law was a formal Tryal of a doubtful Cause or Quarrel, by the Sword or Baltons of two Champions: Of this you may

read at large both in divers Civilians, as *Pap. de Puteo de re militari & duello*, *Alciat. de duello*, *Hottoman disputatio feudalium*, cap. 42. and others, and Common Lawyers, namely *Glanville*, lib. 14. cap. 1. *Bract.* lib. 3. tra. 2. cap. 3. *Britton*, cap. 22. *Hornes Mirrour of Justices*, lib. 3. cap. des exceptions in fine proximi. & cap. *juramentum duelli*, *Dyer*, fol. 301. num. 41, 42. *Camden* in his *Brit.* fol. 319. mentions a Combat between *Alan de la Zouch*, and *John Earl of Warren*, in the year 1269. The last Tryal by Combat in England, was in the sixth year of King Charles the First, between *Donald Lord Rey Appellant*, and *David Ramsay Esq;* Defendant, both Scotch-men; but after many Formalities, the matter was referred to the Kings Will and Pleasure, *Bakers Chron.* fol. 500. See Co. on *Lit.* fol. 294. b. *Origines Juridicales*, fol. 65. and *Spelman's Gloss.* at large, verbo *Campus*.

Comin Seed, *Semen Cumini*, Is a Seed brought forth by an Herb so called, which you see described in *Gerards Herbal*, lib. 2, cap. 416. This is placed among the garbleable Drugs, *1 Jac.* 19.

Comitatu Commissio, Is a Writ or *Commissio*, whereby the Sheriff is authorized to take upon him the command of the County, *Reg. Orig. fol.* 295. *Co. Rep. lib. 3. fol. 72.*

Comitatu & Castro Commissio, Is a Writ whereby the Charge of a County, together with the keeping of a Castle, is committed to the Sheriff, *Reg. Orig. fol. 295. a.*

Commandry, (*Præceptoris*) Was a Mannor or Chief Messuage, with Lands and Tenements appertaining thereto, belonging to the Priory of *St. John of Jerusalem in England*, and he which had the Government of any such Mannor or House, was called a *Commander*; who could not dispose of it, but to the use of the Priory, only taking thence his own sustenance, according to his Degree, who was usually a Brother of the same Priory, *Termes de la Ley*, verbo *Commandry*. By some other Books it appears, That the chief Prior of *St. Johns* was a Commander of a Nunnery, and constituted the Priorefs of the said Nunnery, who was under his Obedience, and removeable at his Will, notwithstanding she had Covent and Common Seal, and had her Possessions several, and was wont to Lease the Land for term of years, *Fullbecks Parallels*, fol. 2. a. Of these *Commandrys*, also you may read *Petrus Gregorius*, lib. de *Beneficiis*, cap. 11. num. 11. These in many places of England are termed by the name of Temples, because they sometimes belonged to the *Templers*, of whom you may read *26 H. 8. cap. 2.* and *32 H. 8. cap. 24.* Thus *New-Eagle*, in the County of *Lincoln*, is still called *The Commandry of Eagle*, as belonging of old to the said Priory. Such also were *Slebach* in *Pembrokeshire*, and *Shengbay* in *Cambridgeshire*. See *Præceptores*.

Comitatus, Of dead Farmes, and Debts desperate, whereof there is no hope, one Roll shall be made and entituled, *Comitatus*, and read every year upon the account of Sheriffs, *10 E. 1. cap. unico.*

Combe, In *Doomsday-Book* signifies a Valley, as *Mr. Agar Reports*.

Commandement, *Preceptum*, Is used diversly in the Common-Law: Sometimes for the

the *Commandment* of the King, when, upon his meer-Motion, and from his own Mouth, he sendeth any Man to Prison, *Stamf. pl. cor. fol. 72.* or of the Justices. And this *Commandment* of the Justices is either *absolute* or *ordinary*. *Absolute*, as when upon their own Authority, in their Wisdom and Discretion, they commit a Man to Prison for a Punishment. *Ordinary* is, when they commit one rather for safe Custody than Punishment: And a Man committed upon an *ordinary Commandment* is bayleable, *Stamf. pl. cor. 73.* Again, *Commandment* is used for the Offence of him that willet another Man to transgress the Law, or to do any thing contrary to the Law, as Theft, Murder, or such like, *Brañ. lib. 3. trañ. 2. cap. 19. Les Civilians appellent cest Commandment, Angelus de maleficiis, Termes de Ley, 145.*

Commendat. Is a Benefice, that being void, is Commended to the Care of some Sufficient Clerk to be supplied, till it may be conveniently provided of a Pastor; and that this was the true original of this practice, may be read at large in *Durandus de sacris Ecclesie Ministeriis & Beneficiis, lib. 5. cap. 7.* He to whom the Church is commended hath the Fruits and Profits thereof only for a certain time, and the nature of the Church is not changed thereby, but is as a thing deposited in the Hands of him to whom it is commended, who hath nothing but the custody thereof, which may be revoked. When a Parson is made a Bishop, there is a Cession of his Benefice by the Promotion; but if the King gives him power to retain his Benefice, he shall continue Parson, and is said to hold it in *Commendam*, *Hub. Rep. fol. 144. Litches Rep. 236. 237. See Ecclesia Commendata in Gloss. 10. scriptor.*

Communitaty, or rather **Communitaty** or **Commonalty**, Signifies the middle sort of the Kings Subjects, 2 *Inst. fol. 539.* *Tout le Commune d'Engle-terre*, are such of the Commons as raised beyond the ordinary Peasants, come to have the managing of Offices, and by that means are one degree under Burgeses, which are Superior to them both in Order and Authority, as in Companies incorporated, they are said to consist of Master, Wardens, and *Commonalty*; the first two being the chief, the middle sort such as are usually called of the *Livery*.

Comen. But I suppose rather *Comen* or *Common*, In Latine *Communis, quod ad omnes pertinet*, Signifieth in our Common-Law, That Soyl or Water, whereof the use is common to this or that Town or Lordship, as Common of Pasture, *Communis Pastura, Brañ. lib. 4. cap. 19. & 40.* Common of Fishing, *Communis Piscaria, Id. lib. 2. cap. 34.* Common of Turbary, *Communis Turbaria*, that is, liberty of digging Turf, *Id. lib. 4. cap. 41.* Common of Estovers, *Communis Estoveriorum, Kitchin, fol. 94.* Common is divided into *Common in gross*, *Common appendant*, *Common appurtenant*, and *Common pur caus. de Vicinage*, that is, by reason of Neighborhood. *Common in gross*, is a liberty to have Common alone, that is, without any Land or Tenement in another mans Land to himself for Life, or to him and his Heirs, and it is commonly passed by deed of Grant, or specialty, *Old Nat. Brev. fol. 31 & 37.* *Common appendant* and *Common appurtenant* be in a manner confounded, as appeareth by *F. N. B. fol. 180.* and are defined to

be a liberty of *Common*, appertaining to, or depending on such or such a Freehold. Onely *Kitchin, fol. 94.* seemeth to make this difference, That he which hath *Common appendant*, hath it without limitation of this or that kind of Beasts, but that is controlled by *Dyer, fol. 70. b. num. 19.* He that hath *Common appendant*, hath it but for Beasts Commonable, as Horses, Oxen, Kine, and Sheep, being accounted fittest for the Ploughman, and not of Goats, Geese and Hogs. Here-to may be added another Difference, viz. That *Common appurtenant* may be severed from the Land whereto it is *appurtenant*, but not *Common appendant*, of whose Original you may read *Coke, lib. 4. fol. 37.* in these words, *Common appendant* by the ancient Law had beginning in this manner, When a Lord infeoffed another in Arable Lands, to hold of him in Socage, as all Tenure in the beginning, according to *Littleton*, was, The Feoffee, to maintain the Service of his Plough, had Common in the Wafts of his Lord, for his necessary Beasts to manure and compost his Land, and that for two causes; one, for that as then it was taken, it was (*sacite*) implied in the Feoffment, by reason the Feoffee could not manage the Land without Cattel, and Cattel could not be sustained without Pasture; and so by consequent the Feoffee had, as a thing necessary and incident, Common in the Wafts and Land of his Lord. And this appeareth by ancient Books, *temp. E. 1. tit. Common 24. & 17 E. 2. tit. Common 23. & 20 E. 3. tit. Admeasurement 8 & 18 E. 3.* and by the rehearsal of the Statute of *Merton, cap. 4.* The second reason was, For maintenance and advancement of Tillage, which is much regarded and favoured in the Law; thus far *Coke. Common pur cause de vicinage*, is a liberty that the Tenants of one Lord in one Town, have to Common with the Tenants of another Lord in another Town, which kind of Common, they that Challenge, may not put their Cattel into the Common of the other Town, for then they be distrainable; but turning them into their own Fields, if they stray into their Neighbours Common, they must be suffered, *Termes de la Ley.* Common of Pasture, the Civilians call *jus compascendi, cum se. plures ex municipibus, qui diversa pradia possidebant, Saltum communem ut jus compascendi haberent mercarentur*: It is called *jus compascuum*.

Commisary, *Commissarius*, Is a Title of Ecclesiastical Jurisdiction, appertaining to such a one as exerciseth Spiritual Jurisdiction (at the least so far as his Commission permitteth) in places of the Diocess so far distant from the chief City, as the Chancellor cannot call the Subjects to the Bishops principal Consistory, without their too great molestation. This *Commisary* is of the Canonists termed *Commissarius* or *Officialis foraneus*. *Lynwoods Provin. cap. 1. de accusat. &c.* And he is ordained to this especial end, That he supply the Bishops Jurisdiction and Office in the Out-places of the Diocess, or else in such Parishes as be peculiar to the Bishop, and exempted from the Jurisdiction of the Arch-deacon; for where either by Prescription or Composition, there be Arch-deacons that have Jurisdiction within their Arch-deaconries, as in most places they there have, this *Commisary* is superfluous, and most commonly doth rather vex and disturb the Country for

for his Lucre, than of Conscience seek to redress the Lives of Offenders. And therefore the Bishop taking Prestation-Money of his Arch-deacons yearly *pro exteriori Jurisdictione*, as it is ordinarily called, doth by superonerating their Circuit with a *Commissary*, not only wrong the Arch-deacons, but the poorer sort of Subjects much more, as common practice too frequently teacheth.

Commission, *Commissio*, Is for the most part in the understanding of the Law as much as Delegation with the Civilians. See *Broke*, *tit. Commission*, and is taken for the Warrant, or Letters Patent, that all Men exercising Jurisdiction either ordinary or extraordinary, have for their power to hear or determine any Cause or Action. Of these, see divers in the Table of the *Register Original*, *verbo Commissio*; yet this word sometimes is extended further than to matters of Judgment, as the *Commission of Purveyors*, 11 H. 4. cap. 28. But with this Epithite (*High*) is used for the Honourable *Commission-Court* instituted and founded upon the Statute 1 Eliz. cap. 1. but for divers reasons utterly abolished and taken away by the Statute made 16, 17 Car. 1. cap. 10.

Commission of Association, Mentioned 18 Eliz. cap. 9. Is a *Commission* under the Great Seal, to associate two or more learned persons, with the several Justices in the several Circuits and Counties in *Wales*.

Commission of Anticipation, Was a *Commission* under the Great Seal, to Collect a Subsidy before the day, Anno 5 H. 8. Co. 12 Rep. fol. 120.

Commission of Rebellion, *Commissio Rebellionis*, Is otherwise called a *Writ of Rebellion*, *breve rebellacionis*, and is sent forth, when a man, after Proclamation made by the Sheriff, upon an Order of the *Chancery*, under great penalty to present himself to the Court by a certain day. And this *Commission* is directed by the way of Command to certain persons, to the end, that they, three, two, or one of them do apprehend, or cause to be apprehended the Party as a Rebel and Contemner of the Kings Laws, wherefoever they find him within the Kingdom, and bring him, or cause him to be brought to the Court upon a day therein assigned. The true Copy of this *Commission* or *Writ* you have in *Crompt. Jurisd. Court de Star-Chamber* as also in *West. touching Proceedings in Chancery*, sect. 24.

Commissioner, *Commissionarius*, Is he that hath *Commission*, as Letters Patent, or other lawful Warrant, to execute any publick Office, as *Commissioners* of the Office of *Fines and Licences*, *West. par. 2. Symbol. tit. Fines*, sect. 156. *Commissioners* in *Eyre*, Anno 3 E. 1. cap. 28. *Commissioners* of *Sewers*, 23 H. 8. 5. 12 Car. 2. cap. 6. with infinite other such like.

Committee, Is he or they to whom the consideration, or ordering of any matter is referred, either by some Court, or consent of Parties to whom it belongeth. As in Parliament, a Bill being read, is either consented unto, and passed, or denyed, or neither of both, but referred to the consideration of some discreet Men appointed by the House farther to examine it, who thereupon are called *Committees*: *Committee* of the King, *West. par. 2. Symbol. tit. Chancery*, sect. 144.

This word seemeth to be something strangely used in *Kitchin*; fol. 160. where the Widow of the Kings Tenant being dead, is called *The Committee of the King*; that is, one committed by the ancient Law of the Land to the Kings Care and Protection.

Common Bench, *Benches Communales*, Is sometimes used for the Court of Common Pleas, Anno 2 E. 3. cap. 11. so called; as Mr. *Cowden* saith in his *Britannia*; pag. 113. *Quia communis placita inter subditos ex parte nostrorum, quod communis vocant, in hoc disceptantur, tam in, the Pleas of Controversies tryed between common persons.* See more in *Common Pleas*.

Common Fine, *Fina Communis*, Of this *Pleta*, lib. 1. cap. 28. *scilicet quibus*, hath these words, *Quibus expediri* (speaking of the business finished by Justices in *Eyre*) *confuturum Justiciarii imponere villatibus, juratoribus hundredis & totis comitatibus concilium & omnes separationes, amerciare, quod videtur voluntarium, cum de perjurio & concilamento non fuerint convicti, sed prius differendum esset cum eis quod animas in fletibus posuerunt pro propria conservatione.* And a little following he saith, *Quod communis misericordia vel fides comitatuum amerciatorum in finibus itinerum Justiciariorum, &c.* which words of his have relation to the Statute, *Westm. 1. cap. 18.* which read, It is called in some places *Head-fine*; in others *Common Lete*, and was, as it seems, first granted to the Lord, towards the charge of his Purchase of the Leet, whereby the *Reliants* had now an ease to do their Suit Royal within the Mannor, and not be compelled to go to the Sheriffs Tourn to do it. And for this *Common Fine* the Lord must prescribe, and cannot distrain for it without a Prescription, as appears in *Godfryes Chse.* in 11 Rep. fol. 44. b. The Clerk of the Market shall take no *Common Fine*; 13 R. 2. cap. 4.

Commoune, A Brother Monk, residing in the same Covent, 3. par. *Inff. fol. 14.*

Common Pleas, *Communis Placita*, Is the Kings Court now held in *Westminster-hall*, but in ancient time moveable, as appears by *Mag. Charta*, cap. 11. and also 2 E. 3. cap. 11. *Q. P. pilla oculi*, part 5. cap. 22. But Mr. *Gwin* in the *Preface to his Reading Saith*, That until the time that Henry the Third granted the great Charter, there were but two Courts in all, called *The Kings Courts*, whereof one was the *Exchequer*, the other the *Kings Bench*, which was then called *Curia Domini Regis*, and *Aula Regis*, because it followed the King and Court; and that upon the Grant of that Charter, the Court of *Common Pleas* was erected and settled in one certain place, *viz. Westminster*. And because this Court was settled at *Westminster*, therefore after that, all Writs ran, *Quod sit coram Justiciariis nostris apud Westmonasterium*; whereas before it was *Coram me vel Justiciariis meis*, simply without addition of place, as he well observeth out of *Glawile and Braddon*: The one writing in Henry the Second time, before the Court was erected; the other in the later time of Henry the third, who erected this Court. All civil Causes, both real and personal, are or were in former times tryed in this Court according to the strict Law of the Realm. And by *Fortescue*, cap. 50. it seemeth to have been the only Court for real Causes; The chief Judge of that Court is called

The Lord Chief Justice of the Common Pleas, assisted with three or four Associates, which are created by Letters Patents from the King, and, as it were, enstalled or placed upon the Bench by the Lord Chancellor and Lord Chief Justice of the Court, as appeareth by *Fortescue*, cap. 51. who expresseth all the Circumstances of this Institution. The best of the Officers belonging to this Court, are, The *Custos brevium*, three Protonotaries, Chirographer, sixteen Filices, four Exigenter, Clerk of the Warrants, Clerk of the Juries, of Jurata Writs, Clerk of the Kings Silver, Clerk of the Treasury, Clerk of the Exchequer, Clerk of the Outlawries, whose distinct Functions, look in their proper places. See *Common Bench*.

Common day in Wales of Lands, Anno 13 R. 2. Stat. 1. cap. 2. signifieth an ordinary day in Court, as in *Wales*, *Quindena Pascha*; that is, you may be in the Court made Anno 13 R. 2. Stat. 1. cap. 2. concerning general days in the Bench.

Common Intendment, Is common meaning; for *Common Intendment* is an ordinary or general Law, which commonly disables the Plaintiff's Declaration. Or *Common Intendment*, is a Writ that may be supposed to be made by *Commons* on *Lis*, fol. 178. b. See *Intendment* in *bolles* at 11.

Common House of Parliament, Is the *Lower House* is called, because the *Commons* of the Realm, that is, the Knights of Shires, Citizens and Burgesses, sit there, *Crompton* fol. 9.

Common Law, *Lex Communis*. Hath three significations; First, for the Laws of this Land simply, without any other Law, as Customary, Civil, Spiritual, or whatsoever other Law joyned to it; as when it is disputed in our Laws of England, what ought of right to be determined by the Common Law, and what by the Spiritual Law, or Admirals Court, or otherwise. Secondly, It is taken for the Kings Courts, as the Kings Bench or Common Pleas, only to shew a difference between them and base Courts, as Customary Courts, Courts Baron, County Courts, Pipowders, and such like; as when a Plea of Land is removed out of ancient Demesne, because the Land is Frank-fee, and pleadable at the Common Law, that is to say, in the Kings Court, and not in ancient Demesne, or in any other base Court. Thirdly, and most usually, By *Common Law* is understood such Laws as were generally taken and holden for Law before any Statute was made to alter the same. As for example, Tenant for Life or for Years were not punishable for Waste at the Common Law, till the Statute of Gloucester, cap. 3. which gives an Action of Waste against them. But Tenant by the Curtilage, and Tenant in Power, were punishable for Waste at the Common Law, that is, by the usual and common received Laws of the Realm before the said Statute was made.

Commons, See *Commons*.

Commorance, Signifies in *Wales* a part of a thing, as a Centred or Hundred, 2 H. 8. cap. 3. See *Stat. Walling.* 2 E. 1. and 2 H. 8. cap. 26. It denotes a great Lordship, and may include one or divers Manors. *Co. on Est.* fol. 5.

Commune, See *Communitas*.

Communi Custodia, Was a Writ that lay for that Lord whose Tenant Holding by Knights-service, dies, and leaves his eldest Son under age, against a Stranger that entreth the Land, and obtaineth the Ward of the Body. See *Old Nat. Brev.* fol. 89. and *Reg. Orig.* fol. 161. a. But this is now become of no use since the Stat. 12 Car. 2. cap. 24. hath taken Wardships with the Dependances.

Communia Placita non tenenda in Banco, Is a Writ directed to the Treasurer and Barons of the Exchequer, forbidding them to hold Plea between two common persons in that Court where neither of them belong to it, *Reg. Orig.* fol. 187. b.

Communication, *Communicatio*, A talking or conferring with, where there is only a Discourse between two or more, without any perfect Agreement; this may be called a Communication, being such as no Action can be grounded upon. See *Nudum Pactum*.

Comorith, *Comoritha*, It signifies a Contribution, 2 H. 4. cap. 27. and 26 H. 8. cap. 6. prohibiteth the levying any such in *Wales*, or the Marches &c. It seems this was a collection made at Maynages, and when young Priests said or sung their first Masses, and sometimes for Redemption of Murders or Felonies.

Companion of the Garter, Is one of the Knights of that most honorable Order, 2 H. 8. cap. 13. See *Garter*.

Compositio mensurarum, Is the Title of an ancient Ordinance for Measures, not Printed, and mentioned in the Statute of 22 Hen. 8. cap. 4.

Compromise, *Compromissum*, We usually say *Compromise*, is a mutual Promise of two or more Parties at Difference, to refer the ending of their Controversies to the Arbitrament and Equity of one or more Arbitrators, *West. part. 2. Symbol.* 11. *Compromise*, fol. 1. defines it thus, A *Compromise* or submission is the faculty or power of pronouncing Sentence between Parties at Controversie, given to Arbitrators by the Parties mutual private consent, without public authority.

Computation, Is used in the Common Law for the true and indifferent construction of time, so that neither the one party nor the other shall do wrong, nor the determination of times referred at large, be taken one way or other, but computed according to the just censure of the Law. As if Indentures of Demise are ingrossed, bearing Date the eleventh day of May, 1669. To Have and to Hold the Land in S. for three years from henceforth, and the Indentures are delivered the fourth day of June, in the year aforesaid. In this case, from henceforth shall be accounted from the day of the delivery of the Indentures, and not by any Computation from the Date: And if the said Indenture be delivered at four of the Clock in the Afternoon of the said fourth Day, this Lease shall end the third day of June in the third year; for the Law in this Computation rejects all Fractions or Divisions of the day, for the uncertainty, which always is the Mother of Contention; so where the Statute of Inrolments made

made Anno 27 Hen. 3. cap. 16. is, That the Writings shall be Inrolled within six Months after the Date of the same Writings indented; if such Writing have Date, the six months shall be accounted from the Date, and not from the Delivery; but if it want Date, then shall it be accounted from the Delivery, Co. lib. 5. fol. 1. If any Deed be shewed to a Court at Westminster, the Deed, by Judgment of the Law, shall remain in Court all the Term in which it is shewed, for all the Term in Law is but as one day, Co. lib. 5. fol. 74. If a Church be void, and the true Patron doth not present within six months, then the Bishop of the Diocese may collate his Chaplain; but these six months shall not be computed according to the 28 days to the month, but according to the Calendar; and there is great diversity in our common Speech in the singular number, as a Twelve-month, which includes all the year, according to the Calendar; and twelve months which shall be computed according to 28 days to every month, Co. lib. 6. fol. 61. b.

Compute, Is a Writ so called of the effect, because it compelleth a Bailiff, Receiver or Chamberlain, to yield his Account, Old Nat. Bro. fol. 158. It is founded upon the Statute of West. 2. cap. 2. Anno 1. 1201. which, for your better understanding, you may read. And it lieth also for Executors of Executors, 15 Eng. Statute de pious. Viduat. cap. 5. Thirdly, Against the Guardian in Socage, for Waste made in the Minority of the Heir, Marlb. cap. 17. And see farther, where, how, and for what it lies, Reg. Orig. fol. 135. Old Nat. Bro. ubi supra, & F. N. B. fol. 116.

Comprint, Properly signifies to Print together; but as it is used in common Speech among Dealers in Books, it intends a surreptitious Printing of another's Copy, to make a gain thereby to himself. This is contrary to the Statutes made 14 Car. 2. cap. 23. 16 Car. 2. cap. 6. 16 & 17 Car. 2. cap. 7. and 19 Car. 2. cap. 4. apud Oxon.

Conabel, (French, *Convenable*, that is, convenient;) the Word is of little use in these days, but you may read it in *Artic. decani & capit. S. Pauli Priorat. S. Helenæ, Dat. 21 June 1439.* We Ordain, That there be made a Hache of Conabel beythe, &c. that no strange People may enjoye: as you and them think honest and Conabel.

Conalers, Be such as find out concealed Lands, what is, such Lands as are privily kept from the King by common persons, having nothing to shew for them, Anno 39. Eliz. cap. 22. They be so called, a *concelando*, as *mons a movendo* by an Antiphrasis. They are called a troublefome or *disurbans sort of men*, turbulent persons, 3 par. Inst. fol. 188.

Coucelsi, A word of frequent use in Conveyances, creating a Covenant in Law, as *Dedi makes a Warranty*, Co. on Lit. fol. 384.

Conclusion, *Conclusio*, Is when a Man by his own act upon Record, hath charged himself with a Duty, or other thing. As if a Freeman confess himself to be the Villain of A. upon Record, and afterward A. takes his Goods, he shall be concluded to say in any Action or Plea afterwards, that he is free, by reason of his own confession. So if the Sheriff upon a *Capias* to him directed, re-

turns that he hath taken the Body, and yet hath not the Body in Court at the day of the Return; he shall be amerced, and if it were upon a *Capias* ad sat. the Plaintiff may have his Action against the Sheriff for the Escape; for by such Returns the Sheriff hath concluded himself. And this Word Conclusion is taken in another sense; as for the end or later part of any Declaration, Bar, Replication, &c. As where to the Bar there ought to be a Replication, the Conclusion of his Plea shall be, *Et hoc paratus est verificare*. If in Dower, the Tenant pleads, That he was never seised to render Dower, the Conclusion shall be, *Et de hoc ponit se super Petitionem*. And in what manner the Conclusion shall be, according to the nature of several Actions, See *Archib. fol. 215, 220.*

Concord, *Concordia*, Is in the Common-Law, by a peculiar signification defined to be the very Agreement between parties; that intend the levying of a Fine of Lands one to the other, how and in what manner the Land shall pass: In the form whereof, many things are to be considered, West. part. 2. Synch. 15. Fines and Concorde, fol. 30. whom read at large. Concord, Is also an Agreement made upon any Trespass committed between two or more, and is divided into a Concord executory, and a Concord executed. See *Plowd. fol. 5. & 6. Reniger and Wessell's Case*, where it appeareth by some Opinion, That the one bindeth not, as being imperfect; the other absolute, and tyeth the parties; And yet by some other Opinion in the same Case, it is affirmed, That Agreements executory be perfect, and do no less bind than Agreements executed, fol. 28. b. of 10.

Concubinage, *Concubinatus*, In common reception signifies the keeping of a Whore for Concubine, but in a legal, is an Exception against her that sueth for her Dower; whereby it is alleged, that she was not a Wife lawfully married to the Party in whose Lands she seeketh to be endowed, but his Concubine, *Bruton, cap. 107. Bract lib. 4. tra. 6. cap. 8.*

Conders, May seem to proceed from the French *Conduire*, *i. Governare*; they be such as stand upon high places near the Seacoast at the time of Herring-fishing, to make signs with Boughs, &c. in their hands unto the Fishers, which way the Hote of Herrings passeth; for that does appear better to such as stand upon some high Cliff on the Shore, by a kind of blue colour that the said Fish causeth in the Water; than to those that be in the Ships. These be other-wise called *Hermers*, (probably from the French *Huyer*, *exclamare*) and *Balkers*, *Directors* and *Guiders*, as appeareth by the Statute made Anno 1. Jacobi, cap. 23.

Condition, *Conditio*, Is a restraint or bridle annexed to a thing; so that by the non-performance, the party to it shall receive prejudice and loss, and by the performance, commodity and advantage, West. part. 1. Synch. lib. 2. fol. 154. and Co. lib. 3. *Penning's Case*, fol. 64. Of these Conditions there are divers kinds, Condition collateral, Condition in fact, Condition in Law, Condition exprest, and Condition implied, &c. Condition collateral, is that which is annexed to any collateral act, as that the Lessee shall not go to Canterbury, Co. lib. 3. fol. 65. Condition in fact, is that which is exprest in plain words in any Feoffment, Lease

or Grant: *Condition in Law* is implied, though not at all exprest in the Grant. Also *Conditions* are either precedent, and going before the Estate, and are executed, or else subsequent and executory. *Condition precedent*, doth get and gain the thing or Estate made upon *Condition*, by the performance of it. *Condition subsequent*, keeps and continues the thing or Estate made upon *condition*, by the performance of it. *Condition precedent* is, when a Lease is made for Life to one upon *condition*, That if the Lessee will pay to the Lessor so li at such a day, then he shall have Fee-simple: Here the *Condition* precedes the Estate in Fee-simple, and upon performance of the *condition*, gains the Fee-simple. *Condition subsequent* is, when one grants to J. S. his Manor of Dale in Fee-simple, upon *condition*, that the Grantee shall pay to him at such a day so li. or else that his Estate shall cease; here the *Condition* is *subsequent*, and following the Estate in Fee, and upon the performance thereof continues the Estate. See more of this in *Co. lib. 3. fol. 64.* and in *Lit. lib. 3. cap. 5.* and *Perkins* in the last Title Of *Conditions*.

Cone and Key, *Brass. lib. 2. cap. 37. num. 3.* A Woman at the Age of fourteen or fifteen years may take the charge of her House, and receive *Cone and Key*, that is, *computum & clavem*. *Cone* or *Colue* in the Saxon signifying *computus*, and *Key*, *clavis*, wherewith there is something agreeable, *Glanville, lib. 7. cap. 9.*

Confederacy, is when two or more *confederates* themselves to do any hurt or damage to another, or to do any unlawful things. And though a Writ of Conspiracy doth not lye, if the party be not indicted, and in lawful manner acquitted, so to are the words of the Writ; yet false *confederacy* between divers persons shall be punished, though nothing be put in *writ*, and this appears by the Book of 37 *Affs. placit. 44.* where there is a Note, That two were indicted of *Confederacy*, each of them to maintain other, whether their matter were true or false; and though nothing was supposed to be put in *writ*, the Parties were put to answer, because this thing is forbidden by the Law. So in the next Article in the same Book, Enquiry shall be made of Conspirators and *Confederators* which bind themselves together, &c. falsely to indite or acquit, &c. the manner of their binding, and between whom; which proves also, That *Confederacy* to indite or acquit, though nothing be done, is punishable by the Law. And it is to be observed, That this *Confederacy* punishable by Law, before it is executed, ought to have four Incidents. First, To be declared by some manner of prosecution, as by making of Bonds or Promises the one to the other. Secondly, To be Malicious, as for unjust Revenge. Thirdly, To be false against an Innocent. And lastly, To be out of Court, and voluntary, *Termes of the Law, fol. 162. 163.*

Confession of Offence, is, when a Prisoner is Appealed or Indicted of Treason or Felony, and brought to the Bar to be Arraigned, and his Indictment is read unto him; And the Court demands what he can say thereon, then either he confesses the Offence, and the Indictment to be true; or estranging him from the Offence, pleads Not Guilty, or else gives an indirect An-

swer, and so in effect stands mute. *Confession* may be made in two sorts, and to two several ends: The one is, He may confess the Offence whereof he is indicted openly in the Court before the Judge, and submit himself to the Censure and Judgment of the Law, which *Confession* is the most certain Answer, and best satisfaction that may be given to the Judge to condemn the Offendor, so that it proceeds freely of his own accord, without any threats, force, or extremity used; For if the *Confession* arise from any of these Causes, it ought not to be Recorded. As if a Woman was indicted for the Felonious taking of Bread, to the value of two shillings, and being thereof arraigned, she confess the Felony, and said, That she did it by the Commandment of her Husband, and the Judge, in pity, would not record her *Confession*, but caused her to plead Not Guilty to the Felony; whereupon the Jury found, That she stole the Bread by compulsion of her Husband, against her will, for which cause she was discharged, 27 *Aff. pl. 50.* The other kind of *Confession* is, when the Prisoner confesses the Indictment to be true, and that he hath committed the Offence whereof he is Indicted, and then becomes an Approver, that is, an Accuser of others who have committed the same Offence whereof he is Indicted, or other Offences with him, and then prays the Judge to have a Coroner assigned him, to whom he may make relation of those Offences, and the full circumstances thereof. There is also a third kind of *Confession* made by an Offendor in Felony, which is not in Court before the Judge, as the other two are; but before a Coroner in a Church, or other privileged place, upon which the Offendor, by the ancient Law of the Realm, was to abjure.

Confirmation, *Confirmatio*, Cometh of the Verb *Confirmare*, quod est firmum facere, and therefore it is said, That *Confirmatio omnes supplet defectum*, licet id quod absum est, ab initio non valuit, *Co. on Lit. lib. 3. cap. 9. fol. 515.* It is a Conveyance of an Estate or Right in esse, whereby a voidable Estate is made sure and unavoidable, or whereby a particular Estate is increased. Nay, it is a strengthening of an Estate formerly, and yet voidable, though not presently void. For example, A Bishop granteth his Chancellorship by Patent, for the term of the Parentes life; this is no void Grant, but voidable by the Bishops death, except it be strengthened by the Confirmation of the Dean and Chapter. *Qualiter confirmatio aut est perficiens, crescens aut diminuens. 1. Perficiens*, As if Feoffee upon a condition make a Feoffment, and the Feoffor confirm the Estate of the second Feoffee: So if Disfeisor confirm the Estate of the Disfeisor, or his Feoffee. 2. *Crescens*, Doth always enlarge the Estate of a Tenant; as Tenant at Will, to hold for years; or Tenant for years to hold for life. 3. *Diminuens*, As when the Lord of whom the Land is holden, confirms the Estate of his Tenant to hold by a less Rent. See more of this, *West. Symb. part. 1. lib. 2. fol. 500. F. N. B. fol. 169, 176, 171.* and *Lit. lib. 3. cap. 9. Co. 9. Rep. Beaumont's Case.*

Confiſcate, *Confiscatus*, May be derived either from the Latine *Confiscare*, or the French *Confisquer*, that is, in publicum addicere; all these words are drawn from *Fiscus*, which (as *Minsheu* saith)

faith) originally signifieth a *Hamper* or *Basket*, but Metonymically the Emperours Treasure, because it was anciently kept in such Hampers. And though our King doth not put his Treasure in such things, yet as the *Romans* have said, That such Goods as were forfeited to the Emperour, were *bona confiscata*, in like manner do we say of such Goods as are forfeited to the Kings Exchequer. And the Tise to have these Goods is given to the King by such Law, when they are not claimed by some other. As if a man be indicted, That he feloniously stole the Goods of another man; when, in truth, they are the proper Goods of him indicted; and they are brought in Court against him as the manner is, and he then asked, what he says to the said Goods, to which he disclaims; by this Disclaim he shall lose the Goods, although that afterwards he be acquitted of the Felony, and the King shall have them as *confiscated*. But otherwise it is, if he do not disclaim them. The same Law is, where Goods are found in the Felons Possession, which he disavows; and afterwards is attainted of other Goods, and not of them, there the Goods which he disavows are *Confiscate* to the King; but had he been attainted of the same Goods, they should have been said to be forfeited, and not *confiscate*, notwithstanding his disavowment. So if an Appeal of Robbery be brought, and the Plaintiff leaves out some of his Goods, he shall not be received to enlarge his Appeal: And for as much as there is none to have the Goods so left out, the King shall have them as *confiscate*, according to the old Rule, *Quid non capis Christus, capis fscm*. And as in the case aforesaid, the Law punishes the Owner for his negligence and connivency; so also the Law abhors malice in seeking the life of any without just cause. And therefore if A. hath the Goods of B. by delivery or finding, and B. brings an Appeal against A. for taking them feloniously, and it is found, That they were the Plaintiffs Goods, and that the Defendant came lawfully by them: In this case the Goods are not *confiscate* to the King, because of the false and malicious Appeal. See more in *Stamf. pl. cor. lib. 3. cap. 24. 3. Inst. fol. 227.*

Contraprye, *Confraternitas*, A Fraternity or Brotherhood, as the *Confratrie de St. George*, or the *Chivaliers de la blue Garter*, the honourable Society of the Knights of the Garter.

Confreres, *Confratres*, Brethren in a Religious House, Fellows of one Society, 32 H. 8. cap. 24.

Congeable, Cometh of the French *Conge*, that is, *Venia*, and signifies in our Common-Law as much as lawful, or lawfully done, or done with leave, as the Entry of the Disseisor is *congeable*, and so *Linston* uses it in his 410 Section, and *Cro. 2. par. fol. 31.*

Conge d' Accordet, Signifies leave to Accord or Agree, it is mentioned in the Statute of *Fines*, 18 E. 3. in these words, *When the Original Writ is delivered in presence of the Parties before the Justices, a Pleador shall say this, Sir Justice Conge d' Accordet; And the Justice shall say to him, What saith Sir R. and shall name one of the Parties, &c.*

Conge d' Elire, *Venia Eligendi*; Is very French, and signifieth in our Common-Law the

Kings permission Royal to a Dean and Chapter in time of Vacation, to chuse a Bishop; or to an Abby or Priory of his own foundation, to chuse the Abbot or Prior, *F. N. B. fol. 169, 170.* Touching this matter, *Gwin* in his Preface to his *Readings* saith, That the King of England as Sovereign Patron of all Arch-bishopricks, Bishopricks, and other Ecclesiastical Benefices, had of ancient time free appointment of all Ecclesiastical Dignities, whensoever they chanced to be void in vesting them first, *per baculum & annulum*, and afterwards by his Letters Patents, and that in process of time he made the Election over to others under certain Forms and Conditions, as, that they should at every Vacation, before they chuse, demand of the King *Conge d' Elire*, that is, licence to proceed to Election, and then after the Election, to crave his Royal assent, &c. And further, he affirmeth by good proof out of Common-Law-Books, That King *John* was the first that granted this, and that it was afterwards confirmed by *Westm. 1. cap. 1.* which Statute was made Anno 3 E. 1. And again, by the Statute *Articuli Cleri*, cap. 2. which was ordained, 25 E. 3. Stat. 3.

Congius, An ancient Measure, containing about nine pints, *Et reddat quinq; congios et ha & unum Idromeli*, &c. *Charta Bismundus Regis de anno 946.*

Confiance. See *Cognizance*.

Conjurat[i]on, *Conjuratio*, Is a Compound of *con* and *juro*, and so it signifieth a plot or compact made by Men, combining themselves together by Oath or Promise, to do any publick harm: But in our Common-Law it is specially used for such as have personal conference with the Devil, or Evil Spirits, to know any Secret, or to effect any purpose, *Anno 5. Eliz. cap. 16.* And the difference between *Conjurat[i]on* and Witchcraft seemeth to be this, That the one by Prayers and Invocations of Gods powerful Names, compels the Devil to say or do what he commandeth him; the other dealeth rather by a friendly and voluntary Conference and Agreement between him or her and the Devil, or Familiar, to have her or his desires or turns served, in lieu of Blood, or other Gift offered unto him; especially of his or her Soul. And both these differ from Enchantments or Sorceries, because they are personal Conferences with the Devil, as is already said; but these are but Medicines, and ceremonial forms of words, called commonly *Charms*, without Apparition.

Consanguineus, Is a Writ, for the which see *Avo, & Reg. Orig. de Avo, proavo & consanguineo*, fol. 226. 2.

Conservator of the Truce and safe Conduits, *Conservator Induciarum & saluorum Regis conductuum*, Was an Officer appointed in every part of the Sea by the Kings Letters Patent, and had forty pounds for his yearly stipend at the least. His charge was to enquire of all Offences done against the Kings Truce and safe Conduits upon the main Sea, out of the Liberties of the Cinque-Ports, as the Admirals customably were wont to do, and such other things as are declared, 2 H. 5. cap. 6. Touching this matter, read also the Statute of 4 H. 5. cap. 7.

Conservator of the Peace, *Conservator vel Custos Pacis*, Is he that hath an especial charge

charge, by virtue of his Office, to see the Kings Peace kept, which *Peace Lambert* in effect defineth to be a withholding or abstinence from that injurious force and violence, which boisterous and warlike persons are in their natures prone to use towards others, were they not restrained by Laws, and fear of punishment. Of these *Conservators* he farther saith thus, That before the time of King Edward the Third, who first erected Justices of Peace, there were sundry persons, that by the Common Law had interest in keeping the Peace, Of those some had that charge, as incident to their Offices which they did bear, and so included within the same, that they were nevertheless called by the name of their Office only: Some others had it simply, as of it self, and were thereof named *Chapman*, *Wardens*, or *Conservators of the Peace*. The former and later sort he again subdivideth, which read in his *Enchiridia*, lib. 1. cap. 3. The Corporation of the great Level of the Fens does consist of a Governor, six Bayliffs, twenty *Conservators* and Commonality, as by Act of Parliament 25. Car. 2. Cap. 17. appears. The Chamberlain of Chester is a *Conservator of the Peace* in that County, by virtue of his Office, 4. Inst. fol. 212. And, *Justices* Constables are by the Common Law *Conservators of the Peace*, &c. *Conservator* of the Privileges of the Hospitalers and Templers, Sec. West. 2. cap. 43. 4. Inst. fol. 341.

Consideration, *Consideratio*, Is that with us which the Greeks called *συνδιαγναι*, that is the material cause of a Contract, without which it would not be effectual or binding. This *Consideration* is either expressed, as if a man bargain to give twenty shillings for a Horse; or else implied, as when the Law it self enforceth a *Consideration*, as if a man come into a common Inn, and there staying some time, taking both Meate and Lodging, for himself and his Horse, the Law presumeth that he intends to pay for both, though nothing he farther covenanted between him and his Host. And therefore if he discharge not the House, the Host may stay his Horse, *Fulbeckes Perill*, 37th. *Contract*, fol. 6. Also there is a *consideration* of Nature and Blood, and valuable *consideration*: And therefore if a Man be indebted to divers others, and yet in consideration of natural affection, give all his Goods to his Son or Cousin, this shall be construed a fraudulent Gift within the Act of 13. Eliz. cap. 5. because this Act intends a valuable *consideration*.

Consistory, *Consistorium*, Is a word borrowed of the *Italiane*; or rather *Lombarda*, and signifies as much as Tribunal. It is *Vogebulum utriusq; juris*, and is used for the place of Justice in the Conte Christian or Spiritual. Every Archbishop, and Bishop hath a *Consistory Court*, held before his Chancellor or Commissary in his Cathedral Church, or other convenient place of his Diocese, for Ecclesiastical Causes, 4. Inst. fol. 398. See further concerning this, *Seldens Hist. of Synodes*, pag. 412. 414.

Consolidation, *Consolidatio*, It is used for uniting two Benefices in one, *Beate, viz. union*, and Anno 27. H. 8. Cap. 21. This is taken from the Civil Law, where it signifies properly an uniting of the possession or profit with the property. For example, if a man have by Legacy *usufructum fundi*, and afterwards buy the Property or Fee-

simple of the Heir, *Huc casu consolidatio fieri dicitur*. See *Union and Unity of Possession*.

Conspirators. See their full Description, 33. E. 1. Stat. 2. par. 1. Inst. fol. 384. & 362. See *Conspiracy*.

Conspiracy, *Conspiratio*, Though both in Latine and French it is used for an Agreement of Men, to do any thing either good or bad; yet in Common Law it is alway taken in *pejorem partem*. It is defined Anno 23. E. 1. Stat. 2. to be an Agreement of such as do confeder, and bind themselves by Oath, Covenant, or other Alliances, That every of them shall bear and aid the other, falsely and maliciously to Indite, or falsely to move or maintain Pleas, and also such as cause Children within age, to appeal Men of Felony, whereby they are imprisoned, and so grieved; and such as retain Men in the Countreies with Liveries or Fees, to maintain their malicious Enterprises. And this extendeth as well to the Takers, as to the Givers. And Stewards and Bayliffs of great Lords, which by their Seigniorie, Office or Power, undertake to bear or maintain Quarrels, Pleas or Debates, that concern other Parties, than such as touch the Estate of their Lords, or themselves. See 4. E. 3. cap. 13. 3. H. 7. cap. 13. and also 1. H. 5. cap. 3. and 18. H. 6. cap. 12. and the *New Book of Equities*, verb. *Conspiracy*. In the places before-mention'd, *Conspiracy* is taken more generally, and is confounded with Maintenance and Champerty: But in a more special signification, it is taken for a confederacy of two at the least, falsely to indite one, or to procure one to be indicted of Felony. And the punishment of conspiracy, upon an Indictment of Felony, at the Kings Suit, is, that the Party arraigned, lose his *Frank-Law*, to the intent that he be not empannelled upon Juries or Assises, or such like Employments, for the testifying of truth. And if he have to do with the Kings Court, that he make his Attorney, and that his Lands, Goods and Chattels be seised into the Kings hands, his Lands estranged, his Treasures seized, and his Body committed to Prison. 27. Ass. 59. *Crompt. Just. of Peace*, fol. 156. b. This is called *Villanous Judgment*. See *Villanous Judgment*. But if the Party grieved sue upon the Writ of *Conspiracy*, they see *F. N. B.* fol. 114. 115. *Conspiracy* may be also in cases of less weight, *Idem* fol. 116. &c. As *Conspiracies* made by Victuallers, touching selling of Victuals, shall be grievously punished. See 37. H. 8. 23. and 3. part. Inst. fol. 143. See *Frank-Law*.

Conspiratoire, Is a Writ that lies against Conspirators, *F. N. B.* fol. 114. d. *Crompt. de Jurisd.* fol. 209. See also the *Register* fol. 134.

Constable, *Constabularius*, Is a Saxon word compounded of *Koning* and *Staple*, which do signifie the stay or hold of the King, *Lam. Duties of Constables*, num 4. But I have heard it made heretofore of these two words, *Comes stabuli*, which seemeth to me the more probable, because we have the Officer from France, as most others, and not from the Saxons. And *Tilius* in his *Commentaries de rebus Gallicis*, lib. 2. cap. de *Comis stabuli*, hath the same Etymology, giving the reason thereof, *qui praeest stabulo*; which Office is ancient here in England, and mentioned by *Bracton*, seeming to answer him that was called *Tribunus equestrum* under the first Kings of Rome, and *Magister equitum* afterward. This word is diversly

diversly used in our Common-Law: First, For the Constable of England, who is also called *Marshall*, *Stamf. pl. cor. fol. 65.* of whose great Dignity and Authority, a man may find many arguments and signs both in the Statutes and Chronicles of this Realm. His Office consisteth in the care of the common Peace of the Land, in deeds of Arms, and matters of War, *Lamb. ubi supra*, with whom agreeth the Statute of *Anno 19. R. 2. cap. 2. Stat. 12. and Smith, de Rep. Anglor. lib. 1. cap. 25.* Of this Officer or Magistrate, Mr. Gou in the Preface to his Reading, saith to this effect, The Court of the Constable and Marshall determineth Contrasts touching deeds of Arms out of the Realm, and handleth things concerning War within the Realm, as *Combates, Blasons of Armory, &c.* But he may not deal with Baret in Appeals, nor generally with any other thing that may be tried by the Laws of the Land, and read *Forrester, cap. 32.* This Office was belonging heretofore to the Lords of certain Mannors, *Jure feodi*, and why it is discontinued, see *Dyer, fol. 285. pl. 39.* Out of this high Magistracy (saith Mr. Lambart) were drawn these lower Constables, which we call Constables of Hundreds and Franchises, and first ordained by the Statute of Winchester, 13 E. 1. which appointeth for the Conservation of the Peace, and view of Armor, two Constables in every Hundred and Franchise, which were called in Latine *Constabularii capitales*. And these be now High Constables, because continuance of time, and increase both of People and Offences, hath again, under these, made others in every Town called *Petis Constables*, in Latine *subconstabularii*, which are of like nature, but of inferior Authority to the other. Of these also read *Smith, lib. 2. cap. 22.* Besides these, there be Officers, of particular places called by this Name, as Constable of the Tower, *Stamf. pl. cor. fol. 152.* & *Anno 1 H. 4. cap. 13. Stow's Annals, pag. 812.* Constable of the Eschequer, 51 H. 3. Stat. 5. Constable of Dover-Castle, *Camb. Brit. 233. F. N. B. fol. 240.* otherwise called *Castellani Westm.* 1. cap. 7. *Anno 3 E. 1.* But these be *Castellani* properly, as *Lambert* takes notice, though conjoynd in name with the others. See the Statute 32 H. 8. cap. 38. *Adenwood, cap. 13.* maketh mention of a Constable of the Forest.

Constat, Is a sort of Certificate made by the Clerk of the Pipe, and Auditors of the Exchequer, at the request of any person who intends to plead in that Court for the discharge of any thing, 3 & 4 E. 6. 4. 13 Eliz. 6. A *Constat* is held to be superior to a Certificate, because this may err or fail in its contents, that cannot, as certifying nothing but what is upon Record. Also the exemplification of the inrollment of Letters Patents is termed a *Constat*, *Co. super Lit. fol. 225.* The difference between a *Constat*, *Infirmus* & *Vidimus*, you may read at large in *Coke's 5. Rep. Pages Case.*

Customs and Services, *Consuetudinibus & servitiis*, Is a Writ of right close, which lyeth against the Tenant, that deforceth his Lord of the Rent or Service due to him. Of this, see more at large in the *Old Nat. Brov. fol. 77. F. N. B. fol. 151.* and *Reg. Orig. fol. 159.*

Consultation, *Consultatio*, Is a Writ whereby a Cause being formerly removed by Prohi-

bition from the Ecclesiastical Court, or Court Christian, to the Kings Court, is returned thither again; for the Judges of the Kings Court, if, upon comparing the Libel with the Suggestion of the Party, they do find the Suggestion false, or not proved, and therefore the Cause to be wrongfully called from Court Christian, then upon this Consultation or Deliberation, they Decree it to be returned again; whereupon the Writ in this Case obtained, is called a *Consultation*. Of this you may read the *Reg. Orig. 44. 45. 46. ad 58. Old Nat. Brov. fol. 320. & Fitz. Nat. Brov. fol. 301.*

Contenement, *Contenementum*, Seemeth to be the Freehold-land which lyeth to a mans Tenement or Dwelling-House that is in his own Occupation: For in *Magna Charta*, cap. 141 you have these words, A Free-man shall not be amerced for a small Fault, but after the quantity of the Fault, and for a great Fault after the manner thereof, saving to him his *Contenement* or Freehold. And a Merchant likewise shall be amerced, saving to him his Merchandises, and a Villain, saving to him his Waynage. And *Bracton*, lib. 3. tract. 2. cap. 1. num. 3. hath these words, *Es sciendum quod miles, & liber homo non amercabitur nisi secundum modum delicti, secundum quod delictum fuit magnum vel parvum & salve contenemento suo, mercator vero non nisi salva mercandisia sua & villanus nisi salva Wainagio suo*; which mercy seemeth to have been learned from the Civil-Law, where *executio non potest fieri in domo, arara, aliave instrumentis rusticorum*. And Sir Henry Spelman says, *Contenementum est affirmatio & conditionis forma, qua quis in re pub. subsistit.*

Contingent use, Is such a use as by the limitation may, or may not happen to vest. Of which you may read to further satisfaction in *Gbudleigh's Case*, *Co. Rep. 1.*

Continuance, Seemeth to be used in the Common-Law as *Prærogative* in the Civil. For example, Continuance until the next Assizes, *F. N. B. fol. 154 & 244.* In both places it is said, That if a Record in the Treasury be alleged by the one Party, and denied by the other; a *Certiorari* shall be sued to the Treasurer and the Chamberlain of the Exchequer, who, if they certify not into the Chancery, that such a Record is there, or that it is likely to be in the Tower, the King shall send to the Justices, repeating the Certificate, and will them to continue the Assize. In this signification it is likewise used by *Kitchin*, fol. 199. & 262. and 11 H. 6. cap. 4.

Continual Claim, Is a Claim made from time to time within every year and day to Land, or other thing, which, in some respect, we cannot attain without danger. As if I be dispossessed of Land, into which, though I have Right unto it, I dare not enter; for fear of Death or Beating. It behoveth me to hold on my Right of Entry to the best opportunity of me and mine Heir, by approaching as near it as I can once every year as long as I live, and so I save the Right of Entry to my Heir. *Termes de la Ley*. Again, if I have a Slave or Villain broken from me, and remaining any where within the ancient Demesne of the King, being in the hands of the King, I cannot maintain the Writ *De Nativo Habendo* as long as he continueth there; but if I Claim him within the year and

and day, and so continue my *Claim* until I can find him within that compass; I may lawfully lay hold of him as mine own. *F. N. B. fol. 79.* See more in *Lit. verb. Continuat. Claim.* And the *New Book of Entries*, tit. *Endow. and Flea*, lib. 6. cap. 33. See also *Lit. lib. 3. cap. 7.* and the *Stat. 32 Hen. 8. cap. 33.*

Continuando, Is a word used when the Plaintiff would recover Damages for several Trespasses in the same Action: For in one Action of Trespass, you may recover Damages for divers Trespasses, laying the first with a *Continuando* to the whole time, and is in this form, *Continuando transgressionem predictam; Et a predicto die, &c. usq; talem diem*; so including the last Trespass.

Contours, See *Countours*.

Contrabanded Goods, Are such as are prohibited by Act of Parliament or Proclamation, to be imported into, or exported out of this into other Nations.

Contract, Is a Covenant or Agreement, with a lawful consideration or cause, *West. Symb. part 1. lib. 1. fol. 10.* or else one thing must be given for another, which is called *Quid pro Quo*; as if I sell my Horse for Money, or Covenant to make you a Lease of my Mannor of Dale, in consideration of twenty pound; these are good *Contracts*, because one thing is given for another. But if a man make Promise to me, That I shall have twenty shillings; and that he will be Debtor to me thereof, and after I ask the twenty shillings, and he will not deliver it; yet I shall never have Action to recover; because the Promise was no *Contract*, but a bare Promise, and *ex nudo Pacto non oritur Actio*. But if any thing were given for the twenty shillings; though it were but to the value of a penny, then had it been a good *Contract*.

Contratorem Collationis, Is a Writ that lies where a man hath given Lands in perpetual Alms to any late Houses of Religion; as to an Abbot and Convent, or to the Warden or Master of any Hospital and his Convent, to find certain poor Men, and do other Divine Service; if they alien the Lands, then the Donor or his Heirs shall have the said Writ to recover the Lands. But this Writ shall be always brought against the Abbot, or his Successor, and not against the Alienor, although he be Tenant; but in all other Actions, where a man demands Freehold, the Writ shall be brought against the Tenant of the Land. This is founded upon the Statute of *Westm. 2. cap. 1.* And of this see *Reg. Orig. fol. 228.* and *F. N. B. fol. 210.*

Contratorem Feoffament, Is a Writ that lies for the Heir of a Tenant, infeofed of certain Lands or Tenements, by Charter of Feoffment of a Lord, to make certain Services and Suits to his Court; and is afterwards distrained for more than is contained in the said Charter, *Reg. Orig. fol. 176. Old Nat. Brev. 162.* This Writ lies not for the Plaintiff, Who Claims by Purchase from the first Feoffee, but for the Heir to the first Feoffee.

Contributio facienda, Is a Writ that lyeth where more are bound to one thing; and yet one is put to the whole burden, *Fit. Nat. Brev. fol. 162.* bringeth these examples, If Joynt-

Tenants, or Tenants in Common, hold a Mill *pro indiviso*, and equally take the Profits thereof; the Mill falling to decay, and one or more of them refusing to contribute towards the reparation, the rest shall have this Writ to compel them. And if there be three Coparceners of Lands that owe suit to the Lords Court; and the eldest perform the whole, then may the have this Writ to compel the other two to a contribution of the charge, or to one of them, if one only refuse. The *Old Nat. Brev.* frameth this Writ to a Case, where one only Suit is required for Land, and that Land being sold to divers; Suit is required of them all, or some of them by Distress, as entirely, as if all were still in one, *fol. 103.* See *Reg. Orig. fol. 176.*

Controller, *Contratrolator*, Cometh of the French *Contratroleur*, *antigraphus*, which in Rome was used for him, *Cui id muneri injunctum erat, ut observet pecuniam, quam in usum Principis vel civitatis collegerunt exactores*, Budæus in annot. prio. in pand. tit. *De quaestor. officio*. In England we have divers officers of this Name, as *Controller of the Kings House*, *Stamf. pl. cor. fol. 52. & 6. H. 4. 3.* *Controller of the Navy*, 35 *Eliz. cap. 4.* *Controller of the Customs*, *Crompt. Jurisd. fol. 105.* *Controller of the Callis*, 21 *R. 2. cap. 18.* *Controller of the Mint*, 2 *H. 6. 12.* *Controller of the Hamper*, who is an Officer in the Chancery, daily attending in Term-time on the Lord Chancellor, or Lord Keeper, to take all things sealed from the Clerk of the Hamper, to note the just number and effect of all things so received; and to enter the same into a special Book, with all the Duties appertaining to his Majesty, and other Officers for the same, and so charge the Clerk of the Hamper thereof. *Controller of the Pipe*, *Contratrolator Pipa*, is an Officer of the Exchequer, that writeth out Summons twice every year to the Sheriffs, to levy the Farms and Debts of the Pipe, and also keepeth a *Contratrolment* of the Pipe. *Controller of the Pell* is another Officer of the Exchequer, of which sort there be two, viz. the two Chamberlains Clerks, that do, or should, keep a *Contratrolment* of the Pell of Receipts and goings out. See *Fleta*, lib. 1. cap. 18. and 12 *E. 3. cap. 3.* who say, This Officer was originally one that took Notes of any other Officers Accounts or Receipts, to the intent, to discover him, if he dealt amiss; and was ordained for the Princes better security, howsoever the same sithence may be in some things otherwise applied.

Controvoz, French *Controuvoeur*, He that of his own head devises or invents false Bruits, or fained News. 2 *Inst. fol. 227.*

Convenable, Convenient or fitting, 27 *E. 3. Stat. 2. cap. 21.* and 2 *Hen. 6. cap. 2.* See *Convenable*.

Conventicle, *Convensiculum*, A private Assembly of a few Folks, under pretence of exercise of Religion; first given to the Meetings of *Wickliff*, in this Nation, above 200 years past, but now applied to the illegal Meetings of the present Non-conformists. It is mentioned 1 *H. 6. cap. 3.* and declared against in Parliament, 16 *Car. 2. cap. 4.* and 17 *Car. 2. cap. 1.* apud *Oxon.*

Conventio, Is a word frequently used both in ancient and modern Law-pleadings, for a *Covenant*.

a *Covenant*

a Covenant or Agreement, as *A. B. queritur, Op. de C. D. G. pro eo quod non teneat Conventionem, &c.*

Convention, Is a Writ that lyeth for any Covenant in writing not performed, *Reg. Orig. fol. 185. Old Nat. Brev. fol. 101. Fitzherbert calls it a Writ of Covenant, Nat. Brev. fol. 145.* where he divideth Covenants into personal and real, making a large Discourse of them both; as also how this Writ lyeth for both.

Conventuals, Are Religious Persons united together in a *Coveyn*, or House of Religion. See *Frier Observant.*

Conventual Church, See *Parish.*

Convict, Convictus. Is he that is found Guilty of an Offence by Verdict of the Jury. *Stamf. pl. cor. fol. 186. Yet Crompton out of Dyers, fol. 275.* faith, That *Conviction* is, either when a Man is Outlawed, or appeareth and confesseth, or else is found Guilty by the Inquest, *Crompt. Just. of Peace, fol. 9. a. Conviction* and Attainder are often confounded. See *Attaint* and *attainted.*

A Convict Reculant, Is one that hath been legally presented, indicted, and convicted for refusing to come to Church to hear the Common-Prayer, according to the several Statutes of *1 Eliz. 2. 28. 1 Eliz. 1. and 3 Jac. 4.* This term is usually given to Papists, though any other refusing to come to Church in like manner, are as properly *Reculants.* See *Jury.*

Convocation, Is commonly taken for the General Assembly of the Clergy, to consult of Ecclesiastical matters in time of Parliament; and as there are two Houses of Parliament, so there are two places called *Convocation-Houses*; the one called, *The Higher*, where the Archbishops and Bishops sit severally by themselves; the other, *The lower Convocation-House*, where all the rest of the Clergy sit, *25 H. 8. cap. 19. Vide Prolocutor.*

Consuance. See *Cognisance.*

Consulant, Knowing or understanding, as if the Son be *Consulant*, and agrees to the Fecolment, &c. *Co. on Lit. fol. 159. b.*

Consulor. See *Cognizor.*

Coopertura, A thicket or covert of Wood, *Chart. de Forest. cap. 12.*

Coparceners, Participes, Be otherwise called *Parceners*, and in Common-Law are such as have equal Portion in the Inheritance of their Ancestor; and as *Littleton* in the beginning of his third Book faith, *Parceners* be either by Law, or by Custom: *Parceners by Law*, are the Issue Female, which (no Heir-male being) come in equality to the Lands of their Ancestors, *Bro. lib. 2. cap. 30. Parceners by Custom*, are those that by custom of the Country challenge equal part in such Lands; as in *Kent*, by the Custom called *Gavelkind*. This among the *Feudists* is called *Adzquatio, Hot. in verbo Feud. verbo Adzquatio.* Of these you may see in *Littleton* at large, in his first and second Chapters of his Third Book. And *Britton, cap. 7.* intituled, *De Heritage divisibile.* The Crown of England is not subject to *Coparcenary*, *25 H. 8. cap. 22.*

Cope, By *Doomsday-Book*, as Mr. *Agor* hath interpreted it, signifies a Hill. It denotes also, according to Mr. *Manlove*, in his Treatise Of the Liberties and Customs of Minst, &c. printed 1653.

A Custom or Tribute due to the Lord of the Soyl, or else to the King, out of the Lead-Mines in some part of *Derbyshire*, his words are these, —

Egrefe and regrefe to the Kings High-way, The Miners have, and Lot and Cope they pay, &c.

And a little after

Six pence a Load for Cope the Lord demands, &c.

Copie, Copia; Is according to the French *Le double de quelque escripture*, and signifies in a legal sense the example or transcript of an original writing; as the *Copie* of a Charter, the *Copie* of a Court-Roll, &c.

Copia libelli delibanda; Is a Writ that lyeth in a case where a Man cannot get the *Copie* of a Label at the hands of the Judge Ecclesiastical, *Register Orig. fol. 510.*

Copyhold, Tenura per copiam rotuli curia; Is a Tenure for which the Tenant hath nothing to shew but the *Copie* of the Rolls made by the Steward of his Lords Court, for the Steward, as he enrolleth and maketh Remembrances of all other things done in the Lords Court; so he doth also of such Tenants, as be admitted in the Court, to any parcel of Land or Tenement belonging to the Mannor; and the Transcript of this is called *The Copie of the Court-Roll*, which is all the Tenant taketh from him, and keeps as his only Evidence, *Cy. lib. 4. fol. 25. b.* This Tenure is called a *basa Tenura*, because it holdeth at the Will of the Lord, *Kitchin, fol. 80. cap. Copy-holds, F. N. B. fol. 19.* where it is said, That it is wont to be called *Tenure in Villanage*, and that of *Copyhold* is but a new Name; yet it is not simply at the Will of the Lord, but according to the custom of the Mannor: So that if a *Copy-holder* break not the custom of the Mannor, and thereby forfeit his Tenure, he seemeth not so much to stand at the Lords courtlesse for his Right, that he may be displaced hand-over-head at his pleasure. These Customs of Mannors be infinite, varying in one point or other almost in every several Mannor: First, Some *Copy-holds* are *fineable* at will, and some certain; that which is *fineable* at will, the Lord taketh at his pleasure; but if it exceed two years Revenue, the *Chancery, Kings Bench, Common Pleas*, or *Exchequer*, may reduce them to reason. That which is certain, is a kind of Inheritance, and called in many places *Customary*, because the Tenant dying, and the Hold being void, the next of Blood, paying the Customary Fine, as two shillings for an Acre, or such like, may not be denied his Admission. Secondly, Some *Copy-holders* have by Custom, the wood growing upon their own Land, which by Law they could not have, *Kitchin, ubi supra.* Thirdly, *Copy-holders*, some be such as hold by the Virge in ancient Demesne; and although they hold by *Copie*, yet are in account a kind of *Freeholder*; for if such a one commit Felony, the King hath annum, *diem & Vastum*, as in case of *Freehold*. Some other hold by Common-Tenure, called *Meere-Copy-holds*, and they committing Felony, their Land escheateth to the Lord of the Mannor, *Kitchin fol. 11. chap. Tenent per virge in ancient Demesne*; what ancient Demesne is, see in the

proper place. See *Tenant by Copy of Court-Roll*. This is the Land that in the Saxons times was called *Folk-land*, Lamb. *Explication of Saxon Words*, verbo *Terra ex scripto*, West. *Symbol. part. 1. lib. 6. fol. 646.* define, a *Copy-holder* thus, *Tenant by Copy of Court-Roll*, is he which is admitted *Tenant* of any Lands or Tenements within a Mannor, that, time out of mind, by Use and Custom of the Mannor, have been demisable and demised to such as will take the same in Fee, or Fee-tail for Life, Years, or at Will, according to the Custom of the Mannor, by *Copy of Court-Roll* of the said Mannor, where you may read more of these things.

Corum non iudice, Is, when a Cause is brought in a Court, whereof the Judges have not any Jurisdiction; there it is said to be *Corum non iudice*, *Croke 2. parafol. 251. Powell's Case.*

Corage, Is an Imposition extraordinary, growing upon some unusual occasion, and seems to be of certain Measures of Corn, *Brasb. lib. 2. cap. 16. num. 6.* uses *Cornu tridici* for a Measure of Corn; and in the same Chapter, *num. 8.* hath these words, *Supra quoniam quidam communes*, &c. In English thus, There are certain common *Prestations*, which are not called *Services*, neither do they arise from Customs, unless some necessary occasion happen, or that the King comes. Such are *Hidage*, *Corage* and *Carvage*, and many others, which are performed in cases of necessity, by the common consent of the whole Kingdom, and which appertain not to the Lord of the Fee; nor is he bound to acquit his Tenant thereof, unless he hath especially tyed himself thereto by his own Deed.

Corb of Wood, ought to be eight foot long, four foot broad, and four foot high by Statute.

Corbage, Is generally applied to all Stuff for the making of Ropes, and also to all kind of Ropes belonging to the rigging of Ship, mentioned 15 *Car. 2. cap. 13. Seamans Dictionary.*

Corbier, Cometh of the French *Corbonnier*, id est, *sutor calcarii*, A Shoemaker, (we call him vulgarly a *Corbwiner*) and is so used in divers Statutes, as *Anno 3. H. 8. cap. 10. & Anno 5. H. 8. cap. 7.* and others.

Coruage, *Coruagium*, From the Latine *Cornu*, and in our Common-Law signifieth a kind of *Grand Sergeanty*; the Service of which Tenure is to blow a Horn, when any Invasion of the Northern Enemy is perceived. And by this many men hold their Land Northward, about the Wall, commonly called *The Pilgrimage Wall*, *Cumbr. Brit. pag. 609.* and *Littleton, fol. 65.* But by Stat. 12 *Car. 2. cap. 24.* All Tenures are turned into free and common Socage. Ca. on *Lit. fol. 107.* saith, That in old Books, it was called, *Horne-geld*, sed *quare*. See *Horne-geld, 2. Inf. fol. 9.*

Corner-Tile. See *Gutter-Tile*.

Corody, *Corodium* signifies in the Common-Law a sum of Money, or allowance of Meat, Drink and Clothing, due to the King, from an Abbey, or other House of Religion, whereof he is the Founder, towards the reasonable Sustainance of such a one of his Servants, being put to his Pension, as he thinketh good to bestow it on. And the difference between a *Corody* and a Pension seemeth to be, that a *Corody* is allowed towards

the Maintenance of any the Kings Servants that liveth in the Abbey; a Pension is given to one of the Kings Chaplains, for his better maintenance in the Kings Service, until he may be better provided of a Benefice. Of both these, read *F.N.B. fol. 230, 231, 233.* who there setteth down all the *Corodies* and Pensions certain, that any Abbey, when they stood, was bound to perform unto the King. There is mention also of a *Corody*, in *Stamf. Prærog. 44.* And this appears an ancient Law, for in *Westm. 2. cap. 25.* It was Ordained, That an Assise shall lie for a *Corody*; It is also apparent by the Statute 34 & 35 *H. 8. cap. 16.* That *Corodies* belonged sometimes to Bishops from Monasteries. And by the *New Terms of Law*, That a *Corody* may be due to a common person, by Grant from one to another, or of common right, to him that is a Founder of a Religious House, not holden in *Frank-almoine*, for that Tenure was discharged of all *Corodies* in it self: By which Book it appeareth also, That a *Corody* is either certain or uncertain, and that it may be for Life, for Years, in Tail, or in Fee. See *Termes de la Ley.*

Corodis habendo, Is a Writ, whereby to exact a *Corody* of an Abbey, or Religious House. See *Corody*, see also *Reg. Orig. fol. 264.*

Coroner electendo, Is a Writ which, after the death or discharge of any *Coroner*, is directed to the Sheriff out of the Chancery, to call together the Free-holders of the County, for the choice of a new *Coroner*, and to certifie into the Chancery, both the Election, and name of the Party elected, and to give him his Oath. See *Westm. 2. cap. 30.* and *F.N.B. fol. 163.* and *Reg. Orig. fol. 177.*

Coroner, Coronator, Is an ancient Officer of this Land so called, because he dealeth wholly for the King and Crown. There be four of them commonly in every County, and they are chosen by the Free-holders of the same upon Writ, and not made by Patent, *Crompt. Jur. fol. 126.* This Officer, though now he be some inferior Gentleman, that hath some smattering in the Law; yet if we look to the Statute of *Westm. 1. cap. 10.* we shall find, That he was wont and ought to be a sufficient Man; that is, the most wise and discreet Knight that best will and may attend upon such an Office; yea, there is a Writ in the Register, *Nisi sit miles, fol. 177.b.* whereby it appeareth, That it was cause sufficient to remove a *Coroner* chosen, if he were not a Knight, and had not a 100 *li.* Rent of Free-hold: And the Lord Chief Justice of the Kings Bench is the Sovereign *Coroner* of the whole Realm, that is, wherever he remaineth, *Lib. Ass. fol. 49. Coke lib. 4. Casu de Wardens, &c.* His Office especially concerneth Pleas of the Crown; but if you will see what anciently belonged to him. Read *Brasb. lib. 3. traft. 2. cap. 5. De Officio Coronatorum circa homicidium, & cap. 6, 7, 8.* and *Britton, cap. 1. Fleta also lib. 1. cap. 18.* and *Hornes Mirror of Justices, lib. 1. cap. del office del Coroners.* But more aptly for the present times, *Stamf. pl. cor. lib. 1. cap. 31.* Note, there be certain special *Coroners* within divers Liberties, as well as those ordinary Officers in every County, as the *Coroner* of the Verge, which is a certain compass about the Kings Court, whom *Crompt.* in his *Jurisd. fol. 108.* calleth

callecth, *The Coroner of the Kings House*, of whose Authority, see *Co. Rep. lib. 4. fol. 46.* And there are certain Charters belonging to Colledges, and other Corporations, whereby they are licenced to appoint their *Coroner* within their own Precincts. See farther of this, *F.N.B. fol. 76. Sui. b. lib. 2. cap. 21. de Rep. Anglor. Lamb. Eiren. lib. 4. cap. 3. pag. 280.* Also of the Office of *Coroner* in Scotland, see *Skene de verbor. Sig. verbo. lter.*

Corporal Oath. See *Oath.*

Corporation, *Corporatio*, Is that which the *Civilians* call *Universitatem*, or *Collegium*, and is a Body-Politic, authorized by the Kings Charter, being of capacity to take and grant, having a common Seal, &c. These are constituted either by Prescription, by Letters Patent, or by Act of Parliament, and are either *Spiritual* or *Temporal*; Of *Spiritual*, some are Corporations of dead persons in Law, and some otherwise; some by Authority of the King only, some by mixt Authority. Those that are *Temporal*, some are by the Authority of the King, and also some by the Common-Law of the Realm.

Corporation Spiritual, and of dead persons in the Law, Is, where the *Corporation* consists of an Abbot and Convent, which had beginning of the King and the Pope, when he had to do here, *Corporation Spiritual, and of able Persons in Law.* Is, where it consists of a Dean and Chapter, a Master of a Colledge or Hospital, and this had beginning from the King only.

Corporation Temporal by the King, Is, where there is a Mayor and Commonalty. *Corporation Temporal* by Authority of the Common-Law, is, the Parliament consisting of the King, the Head; the Lords *Spiritual* and *Temporal*, and *Commons*, the Body.

If Land be given to a Mayor and Commonalty for their Lives, they have an Estate by Intendment, not determinable: So it is, if a Feoffment be made of Land to a Dean and Chapter, without mention of Successors. Release of a Mayor for any sum of Money due to the *Corporation* in his own name, is not good in Law, in case of a sole *Corporation*, as Bishop, Parson, Vicar, Master of Hospital, &c. no Chattel either in Action or Possession, shall go in succession; but the Executors or Administrators of the Bishop, Parson, &c. shall have them; but otherwise it is in case of a *Corporation* aggregate, as a Dean and Chapter, Mayor and Commonalty, and such like; for they, in Judgment of the Law, never dye. Yet the case of the *Chamberlain* of London differs from all these, for his Successor may, in his own name, have Execution of a Recognisance acknowledged to his Predecessor, for Ophanage-Money, and the reason is, because in this case the *Corporation* of the *Chamberlain* is by Custom, which hath enabled the Successor to take such Recognisances, Obligations, &c. that are made to his Predecessor. And this Custom is founded upon great reason, for the Executors or Administrators of the *Chamberlain* ought not to intermeddle with such Recognisances, &c. which by the said Custom are taken in the Corporate capacity of the *Chamberlain*, and not in his private.

Corpus cum Causa, Is a Writ issuing out of the Chancery, to remove both the Body and

the Record, touching the cause of any man lying in Execution upon a Judgment for Debt, into the Kings Bench, &c. there to lye until he have satisfied the Judgment, *Fit. Nat. Brev. fol. 251. e.*

Corpus Christi day, The next *Thursday* after *Trinity-Sunday*, is a Feast instituted in honor of the Blessed Sacrament. It is mentioned 32 H. 8. 21. by which Statute also *Trinity Term* is always to begin the *Friday* next after this Feast.

Corrector of the Staple, Is a Clerk belonging to the *Staple*, that writeth and recordeth the Bargains of Merchants there made, 27 E. 3. Stat. 2. cap. 22, & 23. The *Romans* called them *Mensurarii*.

Corruption of Blood, Is an Infection growing to the state of a Man attainted of Felony or Treason; for he loseth all to the Prince, or other Lord of the Fee, as his case is, so his Issue cannot be Heirs to him, or to any other Ancestor, of whom they might have claimed by him. And further, if he were noble or a Gentleman before, he and his Children are made unnoble and ungentile. But if the King will pardon the Offendor, it will cleanse the *Corruption of the Blood* of those Children which are born after the Pardon, and they may inherit the Land of their Ancestor purchased at the time of the Pardon, or afterwards, but so cannot they who were born before the Pardon. But there are divers Limitations even in Treason, made by Statutes which save *Corruption of Blood*, though a Man be attainted, 27 E. 3. cap. 7. 23 H. 7. cap. 17. 5 Eliz. cap. 1. 11. 18 Eliz. cap. 1. 6. 14. 31 Eliz. cap. 4. 1 Mar. cap. 12. 1 Jac. cap. 12.

Corps present, Are words borrowed from the French *Corps present*, signifying a *Mortuary*, which may be thus termed; for that where a *Mortuary* was wont to be due, the Body of the best Beast was according to the Law or Custom offered or presented to the Priest. See 21 H. 8. cap. 6.

Corslet, Is a French word, signifying a little Body, in Latine *Corpusculum*; we generally use it for an Armor to cover the whole Body, 4 G. 3. P. & M. cap. 2. wherewith Pike-men, commonly set in the Front and Flanks of the Battell, are armed, for the better resistance of the Enemies Assaults; and the surer Guard of the Gunners placed behind, who were more slightly armed, for their speedier advancing, and retreating to Fire. See *Barres's Discourse of War*, lib. 3. Dialog. 2.

Cotenage, Cognatione, Is a Writ that lies, where the *Tresayle*, (that is, *Tritavum*, the Father of the *Besayle*, or of the great Grand-father) is seized in his Demesne, as of Fee, at the day of his death, of certain Lands or Tenements, and dyeth, and then a stranger entreth, and abateth; for then shall his Heir have this Writ of *Cotenage*, the form whereof see in *F.N.B. fol. 221.* of this, read also *Britton* at large, cap. 89.

Cotening, Is an Offence unnamed, whereby any thing is done guilfully, in or out of Contracts, which cannot be fitly termed by any special Name, *West Symbol. pars. 2. tit. Indictments*, sect. 68. It is called in the Civil-Law, *Stellionatus* of *Stellio*, a Beast, which is *Lacerta genus versutissimum*, as *Cujacius* in his *Particulae* calleth it: And *Pliny*,

Pliny, lib. 3. cap. 10. says, *Nullum animal invidet homini fraudulentius.*

Cot, In the old Saxon signifying Cottage, and so still in many places of England, as *Versegan* testifies in his *Resitution*, of decayed Intelligences in Antiquities. It is also a kind of refuse wooll, clung or clotted together, that it cannot be pulled asunder, *Ann. 12 R. 2. Stat. 1. cap. 9.*

Cotage, *Cotagium*, Is a small House, with our Land belonging to it, 4 E. 1. Stat. 1. and the Inhabitant of such a House is called a *Cotager*, but by a later Statute no man may build a *Cotage*, but he must lay four Acres of Land to it.

Cotarii, *Cotagers*, *Doomsday*.

Cotereff, Used in the same Book for *Cotageri* also.

Coturbani, *Beres*, or Husbandmen. Vide the Book of *Doomsday*.

Coucher, Signifies a Factor, residing in some Foreign Country for Traffick, as formerly in *Gascogne*, for buying Wines, 3 E. 4 E. 6. cap. 10. It is used for the general Book, wherein a Corporation, &c. Register their particular Acts.

Covenable, *Rationabilis*, Is a French word denoting fit or convenient. So 4 E. 8. cap. 12. *covenably* endowed, that is, endowed as is fitting. It was also written *covenable*, 27 E. 3. Stat. 2. cap. 17. *Plowd. fol. 472. a.*

Covenant, *Conventio*, Is the consent of two, or more, to one thing, to do or give something, *West Symbol. part 2. lib. 1. sect. 4.* It seemeth to be as much as *Padum Conventum* with the *Civilians*, which you read oftentimes in *Tully*, *Padum conventum quod & vulgo vestitum vocant*, *opponitur nudo pacto, vel ut ab omni iuri solemnitate destituito*, *Hujus exempla, &c. Oldendyppius.* And *Covenant* in this signification is either a *Covenant in Law*, or a *Covenant in Fact*, *Coke, lib. 4. Noke's Case, fol. 80.* or *Covenant express*, and *Covenant in Law*, *Co. lib. 6. fol. 17. a.* *Covenant in Law* is, that which the Law intendeth to be made, though in words it be not express, as if the Lessor do demise and grant, &c. to the Lessee for a certain term, the Law intendeth a *Covenant* on the Lessors part, That the Lessee shall quietly enjoy his Lease for his term against all Incumbrances. *Covenant in fact* is, that which is expressly agreed between the Parties. There is also a *Covenant* merely personal, and a *Covenant real*, *F. N. B. fol. 145.* And he seemeth to say, That a *Covenant real* is, whereby a Man tyeth himself, to pass a thing real, as Lands or Tenements; as a *Covenant* to levy a Fine of Land, &c. A *Covenant* merely personal of the other side is, where a Man covenantieth with another by Deed to build him a House, or any other thing, or to serve him, or to inticoff him, &c.

Covenant, Is also the Name of a Writ, for which see *Conventions*; Instruments of *Covenant* you may see good store in *West Symbol. part 1. lib. 2. sect. 100.* See also the *New Book of Entries verbo Covenant*. This word hath also an evil interpretation, as the late *Solemn League and Covenant* was a seditious Conspiracy, Voted illegal and irreligious by Parliament, 1661. and Provision made against it by Stat. 24 Car. 2. cap. 4.

Covent, *Conventus*, Signifies the Society of an Abby or Priory, as *Societas* signifies the

number of Fellows in a Colledge, *Bract. lib. 3. cap. 35.*

Coverture, Is a French word, signifying any thing that covers, as *Appareil*, a *Coverlet*, &c. and deduced from the *covoir*, that is, *segerere*; In Law, it is particularly applied to the Estate and Condition of a married Woman, who by the Laws of our Realm is *sub potestate viri*, and therefore disabled to make bargain with any, to the prejudice of her self, or her Husband, without his Assent and Privy, or at the least without his Allowance and Confirmation, *Bro. hoc tit. per tot.* And *Bracton, lib. 2. cap. 15. falth*, That *Omnia que sunt uxori, sunt ipsius viri, nec habet uxor potestatem sui, sed vir.* And again, *lib. 4. cap. 24. Vir est caput mulieris.* And also *Lib. 5. tract. 2. cap. 3.* That in any Law matters, *sine viro respondere non potest.* And in the same Book, *Tract. 5. cap. 23. Vir & uxor sunt quasi unica persona, quia caro una & sanguis unus;* *Ras licet sit propria uxor, vir tamen ejus custos, cum sit caput mulieris,* and *Lib. 1. cap. 10. nu. 2. uxores sunt sub virga viri.* And if the Husband alien the Wives Lands, during the Marriage, she cannot gain-say it during his life. *Sec cui ante divorcium, and cui in vita.*

Covine, *Covina*, Is a deceitful Assent or Agreement between two, or more, to the prejudice of another. As if a Tenant for term of life, or Tenant in tail, will secretly conspire with another, that the other shall recover against the Tenant for life, the Land which he holds, &c. in prejudice of him in the Reversion. It cometh from the French Verb *Covenancer*, that is, *deparisci*, or rather *convenir*, id est, *convenire.*

Count, Signifieth as much as the original Declaration in a Process, though more used in real than personal Actions; as Declaration is more applied to personal than real, *F. N. B. a. 60. d. 71. a. 191. s. 217. a.* *Label* with the *Civilians* comprehends both. And yet *Count* and Declaration be sometimes confounded, as *Count* in Debt. *Kjichin, fol. 281.* *Count* or Declaration in Appeal. *Pl. cor. 78.* *Count* in Trespass, *Briston, cap. 26.* *Count* in an Action upon the Case for a Slander, *Kjich. 252.* The word seemeth to come from *France* and *Normandy*, for in the *Grand Customary, cap. 64.* *Contours* are taken for such as a man retains to speak for him in any Court as Advocates, and *cap. 63. Pledcurs*, he makes an other sort of Spokesmen in the nature of Attorneys, for one that is himself present, but suffereth another to speak in his behalf. But *Contours* by *Horn's Mur. of Just. lib. 2. cap. des loyers*, are such Sergeants, skilful in the Law, which serve the common people to defend their Actions in Judicature for their Fee, whose Duty, if it be as is there described, and were observed, Men might have much more comfort of the Law than they have.

Countee, French *Comit*, which may well be derived from the Latine *Comes*, because they accompany the King, it was the most eminent Dignity of a Subject, before the Conquest, next to a Duke; and in ancient time were men of great Estate and Dignity, for which cause the Law gives them large Priviledges, as their persons may not be arrested for Debt, Trespass, &c. they may not be put upon Juries, &c. And of old the *Countee* was *Præpositus*, or *Præfectus Comitatus*, and had the Charge and Custody of the County, in which Authority

authority the Sheriff hath now succeeded, *Co. lib. 9. fol. 46.* and is therefore called *Vice-comes*. See *Earl*.

Countenance, Seemeth to be used for *Credit* or *Affirmation*, *Old. Nat. Brev. fol. 111.* in these words, Also the Attaint shall be granted to poor Men that will swear, they have nothing whereof they may make Fine, saving their *Countenance*; So is it used *1 E. 3. Stat. 2. cap. 4* in these words, Sheriffs shall Charge the Kings Debtors with as much as they may levy with their Oaths without abating the Debtors *Countenance*. See *Contentment*.

Counter, *Computatorium*, May be derived from the Latine Verb *Computare*, to account. But we use it for the Names of the two City Prisons, commonly called the *Counters*, wherinto, he that once slippeth, is like to account ere he get out.

Countermand, Is, where a thing formerly executed, is afterward by some Act or Ceremony made void by the Party that hath first done it. As if a Man hath made his last Will, whereby he devises his Land to J. S. and then he enfeoffs another of the same Land; there this Feoffment is a *Countermand* to the Will, and the Will, as to the disposition of the Land, is void. If a Woman, seised of Land in Fee, makes a Will in writing, and devises, that if A. of B. survives her, then she devises and bequeaths to him and his Heirs her Land, and afterward she intermarries with the said A. of B.; there by taking him to Husband and Coverture at the time of her death, the Will is *countermanded*.

Counterplea, Is compounded of two French words, *Conter*, i. *Contra*, *adversus*; and *pleader*, *causam agere*, it signifieth properly in our Common-Law a Replication to *Ayde Prior*; for when the Tenant by Curtesie, or in Dower, prayeth in Ayde of the King, or him in the Reversion for his better Defence; or else if a Stranger to the action begun, desire to be received, to say what he can for the safeguard of his Estate; that which the Demandant alledgeth against this Request, why it should not be admitted, is called a *Counterplea*. And in this signification it is used *25 E. 3. Stat. 3. cap. 7.* See also the *Terms of the Law*, fol. 172. and the Statute *3 E. 1. cap. 39.*

Counter Rolls, *Anno 3 E. 1. cap. 10.* Sheriffs shall have *Counter Rolls* with the Coroners, as well of Appeals, as of Enquests, &c.

Counters, French *Contours*, Have been taken for such Sergeants at Law as a man retains to defend his Cause for his Fee, *Hornes Mirrour of Justices*, lib. 2. cap. *des Loyer*, mentioned by *Chaucer* in these words,

*A Sheriff had he been, and a Contour,
Was no rohere such a worthy Vavasour.*

They were anciently called *Sergeant-Counters*, *Co. on Lit. fol. 17. a.*

County, *Comitatus*, Signifieth as much as Shire; the one descending from the French, the other from the Saxon, both containing a Circuit or Portion of the Realm, into which the whole Land is divided, for the better Government thereof, and the more easie administration of Justice; so that there is no part of the Kingdom

that lyeth not within some County, and every County is governed by a yearly Officer, whom we call a *Sheriff*, which among other Duties, belonging to his Office, putteth in execution all the Commandements and Judgments of the Kings Courts, *Fortescue*, cap. 24. Of these *Counties*, there be four of especial mark, which there fore are termed *Counties Palatine*, as the *County Palatine of Lancaster*, *Chester*, *Durham* and *Ely*, *Anno 5 Eliz. cap. 23.* the Statute *33 H. 8. cap. 10.* mentions the *County Palatine of Hexam*: Heretofore the Jurisdiction of a *County Palatine* was of so high a nature, that whereas all Pleas, touching the Life or Mayhem of a Man, called *Pleas of the Crown*, be ordinarily held and sped in the Kings Name, and cannot pass in the Name of any other: The chief Governors of these, by especial Charter from the King, did send out all Writs in their own Name, and did all things touching Justice as absolutely as the Prince himself in other *Counties*, onely acknowledging him their Superior and Sovereign. But by *27 H. 8. cap. 25.* This Power is much abridged, to which I refer the Reader: As also to *Crompt. Juris. fol. 137.* Besides these *Counties* of both sorts, there be likewise *Counties Corporate*, as appeareth by the Stat. *3 Ed. 4. 5.* And these be certain Cities, or ancient Boroughs of the Land, upon which the Princes of our Nation have thought good to bestow such extraordinary Liberties. Of these the Famous City of London is one and the principal, *York* another, *32 H. 8. cap. 13.* the City of *Chester* a third, *42 Eliz. 15.* *Canterbury* a fourth, *Lamb. Eiren. lib. 1. cap. 9.* *Norwich*, *Worcester*, and many more, especially the *County of the Town of Kingstone upon Hull*, *32 H. 8. 13.* The *County of the Town of Haverford West*, *35 H. 8. 16.* and the *County of Litchfield*, *Crompt. Justice of Peace, fol. 59.* a *County* in another signification, is used for the *County-Court* which the Sheriff keepeth every Month within his Charge, either by himself or his Deputy, *Anno 2 E. 6. cap. 25. Crompt. Juris. fol. 221.* *Bract. lib. 3. cap. 7. & lib. 3. tract. 2. cap. 12.* Of these *Counties*, there are reckoned in England forty, besides twelve in Wales, making in all fifty two. The word *Comitatus*, is also used for a Jurisdiction or Territory among the Feudists.

County-Court, *Curia Comitatus*, By *Lambert* is otherwise called *Conventus*, in his Explication of Saxon words, and divided into two sorts; one retaining the general Name, as the *County Court*, held every moneth by the Sheriff, or his Deputy the Under Sheriff, whereof you may read in *Crompt. Juris. fol. 231.* The other called *The Turn*, held twice every year, of which see more in his proper place. And *Crompt. Juris. ibid.* This *County-Court* had in ancient times the Cognizance of great Matters, as may appear by *Glanville*, lib. 1. cap. 2, 3, 4. by *Bracton* and *Britten* in divers places, and by *Fleta*, lib. 2. cap. 62. but was abridged by the Statute of *Magna Charta*, cap. 17. and much more by *1 E. 4. cap. 1.* It had also, and hath the determination of certain Trespasses and Debts under forty shillings, *Britton*, cap. 27. 28. What manner of proceeding was of old used in this Court. See *Fleta ubi supra.*

Counting-House of the Kings House hold, *Domus Computus Hospitii Regis*, Is commonly called *The Green-cloth*, because the Table

stands always cover'd with a *Green-cloth*: Here sit the Lord Steward, Treasurer of the Kings-Houfe, Controller, Master of the Household, Cofferer, two Clerks of the *Green-cloth*, and two Clerks Controllers, for daily taking the Accounts of all Expenses of the Household, making Provisions, and ordering Payment for the same; for the good Government of the Kings Servants, and paying the Wages of those below Stairs. Vide 39 Eliz. cap. 7. and 4. Inst. fol. 131.

Courraier, A French word signifying a Horse-Courser. 2. Inst. fol. 719.

Courtstour. See *Curstour*.

Court, *Curia*, Cometh of the French *Court*, which signifies the Kings Palace or Mansion, but derived of the Latin word *Curia*, which, among the Romans, had divers significations; and with us also hath diversity of senses; as the House where the King remaineth with his ordinary Retinue, and also the place where Justice is judicially administered, of which you find thirty two several sorts in *Crompton's Book of Jurisdictions* well described, and of them most are Courts of Record; some be not, and therefore are accounted *base Courts* in comparison of the rest. Besides these, there are also *Courts-Christian*, *Smith de Rep. Angl. lib. 3. cap. 6.* which are so called, because they handle matters especially appertaining to Christianity, and such as, without good knowledge in Divinity, cannot be well judged of, being held heretofore by Archbishops and Bishops, as from the Pope, because he challenged the superiority in all Causes Spiritual, but since his rejection they hold them by the Kings Authority, *virtute Magistratus sui*, as the Admiral of England holds his; whereupon it proceedeth, that they send out their Precepts in their own Names, and not in the Kings, as the Justices of the Kings Courts do. And therefore as the Appeal from these Courts did lie to Rome, now by the Statute, 25 H. 8. cap. 19. it lyeth to the King in his Chancery.

Court-Baron, *Curia Baronis*, Is a Court that every Lord of a Mannor (which in ancient times were called *Barons*) hath within his own Precincts. *Barons* in other Nations have great Territories and Jurisdictions from their Sovereign: But here in England, what they be, and have been heretofore, see in *Baron*. Of this Court and of a *Court-Leet*, you may read at large in *Kitchin*, who hath writ a whole Book of them. Co. 4. Rep. among his Copy-hold Cases, fol. 26. b. saith, That this Court is two-fold, as if a Man having a Mannor in a Town, to grant the Inheritance of the Copy-holders thereunto belonging to another; This Grantee may keep a Court for the Customary Tenants, and accept Surrenders to the use of others, and make both Admittances and Grants. The other Court is of Freeholders, which is properly called *The Court Baron*, wherein the Suitors, that is, the Free-holders, be Judges, whereas of the other the Lord, or his Steward, is Judge.

Court of Pye-Powders. See *Pie-powders*.

Court of Requests, *Curia Requisitionum*, Is a Court of Equity, of the same nature with the Chancery, but inferior to it, being prin-

cipally instituted for the help of such Petitioners, as in conscionable cases deal by Supplication with his Majesty. This Court, as Mr. *Gwin* saith in the Preface to his Readings, Had beginning from a Commission first granted by Henry the Eighth to the Masters of the Requests, whereas before that time, in his Opinion, they had no warrant of ordinary Jurisdiction, but travelled between the King and the Petitioner, by direction from the Kings mouth. But Sir *Julius Caesar* in a Treatise of his on that Subject, plainly sheweth, That this Court was 9 H. 7. though then following the King, and not settled in any certain place, neither swayed particularly by the Masters of Requests, as you may see more in the same Book in several places, especially pag. 148. Also a pag. prima usq; ad pag. 46. This Court had assumed so great power to it self, that it grew burdensome and grievous, and therefore was taken away with some others, by a Statute made 16 & 17 Car. 1. cap. 10. and therefore being out of use, we need say no more of it here.

Court of the Legate, Was a Court obtained by Cardinal *Wolsey* of Pope *Leo* the Tenth, 9 H. 8. wherein he had power to prove Wills, and dispence with Offences against the Spiritual Laws, &c. but it was of short continuance, and fell utterly with him.

Court-Christian, *Curia Christianitatis*, Concerning which, *Linwood* thus, In *curia Christianitatis*, 1. Ecclesie in qua servantur Leges Christi, cum tamen in foro Regio servantur Leges Mundi. As in the Kings Courts humane Laws are maintained, so in the Court-Christian the Laws of Christ should be the Rule; and therefore the Judges are Divines, as Archbishops, Bishops, Archdeacons, and the like, 2. par. Inst. fol. 488. See also before in Court.

Court of Delegates. See *Delegates*.

Court of Chivalry, *curia Militaris*, Known also by the name of the Marshal-Court, the Judges are the Lord High-Constable of England, and the Earl-Marshal of England. This Court is the Fountain of Martial-Law, and the Earl-Marshal is not only one of the Judges, but also to see Execution done. See *Constable*, 4. par. Inst. fol. 123.

Courtillage. See *Curtilage*.

Courtesie of England. See *Curtesie* of England.

Coutheutlaughe, Is he that willingly receiveth a Man Out-lawed, and cherisheth or hideth him; in which case he was in ancient time subject to the same Punishment that the Out-law himself was, *Bracton*, lib. 3. tract. 2. cap. 13. num. 2. It is compounded of *Couthe*, that is, known, and *utlaughe*, an Out-law, as we now call him.

Cranage, *Cranagium*, Is a liberty to use a Crane, for the drawing up of Wares from the Vessels at any Creek of the Sea or Wharf, unto the Land, and to make profit of it: It signifieth also the Money taken, and paid for the same. *New Book of Entries*, fol. 3. col. 3.

Crasino sancti Vincentii, The Morrow after the Feast of St. Vincent the Martyr, being the 22 of January, is the Date of the Statutes made at Merton, Anno 20 H. 3.

Crabent or **Craben**, Was a word of Oblo.

Obloquy, where in a Tryal by Battel upon a Writ of Right, the Victory should be proclaimed, and the vanquished acknowledge his Fault, or pronounce the word *Cravant*, &c. and thereupon Judgment was given forthwith, and then the *Recreant* should become infamous, 2. *par. Inst.* 247. 248. We retain the word still for a Coward: If the Appellant joyn Battel, and cry *Cravant*, *amitter liberam legem*; but if the Appellee cry *Cravant*, he shall be hanged, 3. *Inst. fol.* 221.

Crayer, A kind of small Vessel or Ship, mentioned in the Statute, 14 *Car. 2. cap.* 27.

Creantso, *Creditor*, Cometh of the French word *Croyance*, *persuasio*, and signifieth him that trusteth another with any Debt, be it in Money or Wares. This word is used in the *Old Nat. Brev.* in the Writ of *Audita Querela. fol.* 66. a.

Creastile. Vide *Roof-tile*.

Creeke, *Creca*, *Crecea*, *Creccum*, Seemeth to be a part of a Haven, where any thing is landed or disburthened out of the Sea; so that when you are out of the main Sea, within the Haven, look how many landing places you have, so many *Creeks* may be said to belong to that Haven. See *Crompt. Jurisdictionis. fol.* 110. a. This word is mentioned 5 *Eliz. 5.* and 4 *H. 4. 10.* &c. and 14 *Car. 2. cap.* 28. and in *Plowd.* in the Case of *Reniger* and *Fogassa*.

Crocarts, A sort of old Money. See *Pollards*.

Croft, *Croftum* & *Crofta*, is a little Close or Pightle adjoining to a House, either for Pasture or Arable, as the Owner pleases: It seemeth to come of the old English word *Craeft*, signifying *Handy-craft*, because such Grounds are for the most part manured, and extraordinarily dressed, by the labour and skill of the Owner.

Croffes, *Cruce signati*, Is used by Britton, *cap.* 122. for Pilgrims: the reason may be, for that they wear the Sign of the *cross* on their Garments. Of these, and their Priviledges, read *Bract. lib.* 5. *part. 2. cap.* 2. and *part. 5. cap.* 29. and the *Grand Customary of Normandy. cap.* 45. Under this word are also signified the Knights of the Order of St. John of Jerusalem, created for the Defence of Pilgrims. Such also were those Worthies of the Nobility and Gentry in the Reigns of King Henry the Second, Richard the First, *Hen. 3.* and *Ed. 1.* who *Cruce signati* were said to take upon them, the *Croisado*, for recovery of the Holy Land, *Gregor. Syntagm. lib.* 15. *cap.* 13. & 14.

Cucking-stool, *Tumbrella*, Is an Engine invented for the punishment of Scolds, and unquiet Women, in ancient time called a *Tumbrell*, *Lamb. Eirenarch. lib.* 1. *cap.* 12. *Bracton* writes this word *Tymborella*, *Kitchin. cap.* charge in *Court-Leet. fol.* 13. a. faith Every one having view of Frank-pledge, ought to have a Pillory and a *Tumbrell*, where he seemeth by a *Tumbrell* to mean the same thing. This was a Punishment anciently inflicted upon Brewers and Bakers transgressing the Laws, who were thereupon in such a *stool* immersed over Head and Ears in *stercore*, some stinking Water.

Cuth, *Cognitus* known.

Cudutlaugh. See *Contrebutlaughe*.

Cui ante divorcium, Is a Writ, that a Woman divorced from her Husband hath to recover Lands or Tenements from him, to whom her Husbandd did alienate them during the Marriage, because then she could not gain say it, *Reg. Orig. fol.* 233. *F. N. B. fol.* 204.

Cui in vita, Is a Writ of Entry, that a Widow hath against him, to whom her Husband aliened her Lands or Tenements in his life-time, which must contain in it, that during his life-time she could not withstand it, *Reg. Orig. fol.* 232. *F. N. B. fol.* 193. See the *New Book of Entries. verbo* Cui in vita.

Cuinagr. See *Cuynage*.

Culagium, Is when a Ship is laid up in the Dock to be repaired, *M. S. Ar. Trevor. Arm. de plac. Ed.*

Culvertage, *Culvertagium*, May be interpreted Cowardise, as *Omnes cum equis & armis iussit sub nomine Culvertagii convenire*, *Mat. Paris. fol.* 233.

Cuneus, A Mint or Place to coyn Money, *Mandatum est, &c. sciatis quod concessimus venerabili Patri nostro Cicefr. Episcopo quod habeat Cuneum suum in Civitate Cicefricie, &c. T. 29. Apr. Claus. 6. Job. m. 3.*

Cuntey, *Cuntey*, Is a kind of Tryal, as appeareth by *Bracton*, in these words, *Negotium in hoc casu terminabitur per Cuntey Cuntey, sicut inter coheredes*, *Bract. lib.* 4. *tract.* 3. *cap.* 18. And again in the same place, *In brevi de resso negotium terminabitur per Cuntey Cuntey*. And thirdly, *Lib. 4. tract. 4. cap. 2. Terminabitur negotium per breve de resso, ubi nec duellum nec magna Assisa, sed per Cuntey Cuntey omnino*, which in mine Opinion is as much as by the Ordinary Jury.

Curfew, Cometh of two French words *Couvrir*, that is *tegere*, and *Feu ignis*, Fire; Vve use it for the ringing of a Bell, by which the Conquerer willed every man to take warning for the raking up, or covering of his Fire, and the putting out of his Light. So that in many places at this day, where a Bell customably is rung towards Bed-time, it is said to ring *Curfew*, *Stow's Annals in vita* Gul. Conquestor.

Curia. See *Court*.

Curia avifare vult, Is a Deliberation that the Court intends to take upon any point or points of a Cause before Judgment be resolved on; for this, see the *New Book of Entries. verbo* Curia avifare vult.

Curia claudenda, Is a Writ that lyeth against him who should fence and close up his Ground, if he refuse, or defer to do it, *Reg. Orig. fol.* 155. *F. N. B. fol.* 127. See also the *New Book of Entries. verbo* Curia claudenda.

Curia Penticiarium, Is a Court held by the Sheriff of *Chester*, in the place there commonly called *The Pendice*, *Pl. in itin. apud Cestr. 14 H. 7.* probably so called at first, because it might be held under a *Penthouse*, or open Shed covered with Boards.

Turnocke. Is four Bushels, or half a quarter of Corn, *Fleta. lib.* 2. *cap.* 12.

Curstoy, *Clericus de curia*, Is an Officer or Clerk belonging to the Chancery, that maketh out

out original Writs, 14 & 15 H. 8. cap. 8. They be called *Clerks of the Course*, in the Oath of the Clerks of the Chancery appointed, 18 E. 3. Stat. 5. cap. *Unico*. They be of these twenty four in number, which have allotted to each of them several Shires, in which they make out such original Writs as are by the Subject required, and are a Corporation of themselves.

Curtesie of England, With us hath a proper signification, being used for a Tenure; for if a man marry an Inheretrix, that is, a Woman seized of Lands in Fee-simple or Fee-tail general, or seized as Heir of the Tail special, and getteth a Child of her that cometh alive into the World, though both it and his wife dye forthwith; yet if she were in possession, he shall keep the Land during his life, and is called *Tenant per Legem Angliæ* or *Tenant by the Curtesie of England*, because this Priviledge is not allowed in any other Country except Scotland, *Glanville, lib. 7. cap. 18. Bract. lib. 5. tract. 5. cap. 30. num. 7, 8, 9. Britton cap. 51. fol. 132. Fleta, lib. 6. cap. 56. F. N. B. fol. 149. Littleton, lib. 1. It is called The Law of England, Westminster 2. cap. 3.* This in Scotland is called *Curialitas Scotiæ*. Skene de verb. Signif. verbo *Curialitas*, who there maketh a large Discourse of this Custome. See more *Termes de la Ley*.

Currier, Is one that dresses or liquors Leather, and is so called of the French word *Cuir*, id est, *Corium*, Leather; The word is used in all the Statutes made for the good making of Leather, as 1 Jac. cap. 22.

Curteyne, Curtana, Was the name of King Edward the Confessors Sword, which is the first Sword carryed before the King of this Land at his Coronation, *Mat. Paris in vita Henrici tertii*. And they say, The point of it is broken, which may seem therefore to be an Emblem of Mercy.

Curtillage, Curtilagium, signifieth a Garden, Yard or Field, or other piece of Ground lying near, or belonging to a Messuage, *West. Symbol. part 2. tit. Fines, sect. 26.* And so it is used *Anno 4 E. 1. cap. Unico, 35 H. 8. cap. 4. 39 Eliz. cap. 10. and Coke, vol. 6. fol. 64. a. and Linwood, tit. de Decimis, cap. sancta, sect. omnibus, verbo Curtelegiorum*. So that in effect it is a Yard or a Garden belonging to a House. *Mibi dici videtur Curtilagium* (sayes the learned *Spelman*) a *Curtellum* & ago scilicet locus ubi curtis, vel curtilli negotium agitur.

Custode admittendo & Custode amovendo, Are Writs for the admitting or removing of Guardians, *Reg. Orig. in indice*.

Custodes libertatis Angliæ autoritate Parliamenti, Was the stile wherein Writs, and other judicial Proceedings, did run during the late times of trouble, viz. From the Murther of King Charles the First, till the Usurpation of Cromwell, mentioned and declared trayterous by the Stat. 12 Car. 2. cap. 3.

Custome, Consuetudo, Is all one in signification with our Common Lawyers and Civilians, being by both accounted a part of the Law; *Consuetudo quædam; pro lege servatur*, saith *Bracton*, in partibus ubi fuerit more utentium approbata; *Longævi enim temporis usus & consuetudinis non est vilis autoritas*, lib. 1. cap. 3. It may not

unaptly be thus defined, *Custome* is a Law or Right not written, which being established by long use, and the consent of our Ancestors, hath been, and is daily practised. Our Ancestors, that is, *Mayores*; and those of our Kindred that are *ultra tritavum*: So that allowing the Father to be so much elder than the Son, as *pubertas*, or the years of Generation do require, the Grand father, so much elder than him, and so usque ad tritavum; We cannot say, That this or that is a *Custome*, unless we can justify it hath continued so at least one hundred years. For *Tritavum* must be so much elder than the Party that pleadeth it, yet because that is hard to prove, it is enough for the proof of a *Custome*, if two or more Witnesses can depose, that they heard their Fathers say, That it was a *Custome* all their time, and that their Fathers heard their Fathers also say, That it was likewise a *Custome* in their time. It is to be proved by Record, the continuance of a hundred years will serve, *Davies's Rep. fol. 32.* *Custome* is either general or particular. General, I call that which is allowed through all England, whereof you may read divers in *Doff. & Stud. lib. 1. cap. 7.* very worthy to be known. Particular, is that which belongeth to this or that County as *Gowelkind* to *Kent*, or to this or that Lordship, City or Town. *Custome* differeth from *Prescription* for that *Custome* is common to more, and *Prescription* is particular to this or that man. Again, *Prescription* asketh not that length of time to set it up as *Custome* doth, but is pleadable in a far shorter time, viz. five years, one year, or less; example of five years *prescription* you have in the levying of a Fine; for if a Fine duly levied of Lands and Tenements, be not impugned within five years, it excludeth all Claim for ever. And if a man omit his continual Claim for a year and a day, then the Tenant in possession prescribeth an immunity against the Entry of the Demandant and his Heir, *F. N. B. fol. 79. Termes de la Ley, verbo Continual Claim*; out of the Statutes you have greater diversity, which see collected in *Cowells Institutes, tit. Dufucap. & long. temp. prescript.* So that *Brissenius* in his 14. lib. de verbo Sig. saith, truly, That *Prescription* is an Exception founded upon so long time past, as the Law limiteth for the pursuit of any Action. An example may be taken from those Statutes 1 H. 8. cap. 4. which enacteth, That in all Actions popular, information shall be made within three years after the Offence committed, or else be of no force. Of like nature is the Statute 7 H. 8. cap. 13. which in some cases makes one years *Prescription* sufficient against Informations. *Custome* is also used for the Tribute or Toll, that Merchants pay to the King for the carrying in and out of Merchandise, 14 E. 3. Stat. 1. cap. 21. in which signification it hath the Latine name *Custuma*, *Reg. Orig. fol. 138. a. 129. a. 4. Inst. fol. 29.* And lastly, For such Services as Tenants of a Mannor owe unto their Lord, *New Book of Entries, verbo Custome*.

Custome House, Is a House in several Cities and Port-Towns, as *London*, &c. where the Kings *Customes* are received, and all business relating thereunto transacted. See 12 Car. 2. cap. 4.

Customary Tenants, Tenants per consuetudinem, Are such Tenants as hold by the *Custome*

of the Mannor, as their special Evidence. See *copy-balds*.

Custos brevium, Is the principal Clerk belonging to the Court of *Common-Pleas*, whose Office is to receive and keep all the Writs, and put them on Files, every Return by itself; and at the end of every Term to receive of the *Protonotaries* all the Records of *Nisi prius*, called *The postea*; for they are first brought in by the Clerk of the Assise of every Circuit to the *Protonotary* that entred the Issue in that matter, for the entering of the Judgment. And then do the *Protonotaries* get of the Court peremptory day, for every party to speak what he hath to alledge in Arrest of Judgment, which day being past, he entred the Verdict and Judgement thereupon into the Roll of the Court; and that done, he doth at the end of the Term deliver over to the *Custos brevium* all the Records of *Nisi prius*, which came to his hand that Term, which received, he bindeth into a bundle, and bestoweth them in apt place. The *Custos brevium* also maketh Entry of the Writs of Covenant, and the Concord upon every Fine, and maketh forth Exemplifications and Copies of all Writs and Records in his Office, & of all Fines levied. The Fines after they be ingrossed, the parts thereof be divided between the *Custos brevium* and the *Chirographer*; whereof the *Chirographer* keepeth always the Writ of Covenant and the Note, the *Custos brevium* keepeth the Concord and Foot of the Fine, upon which Foot the *Chirographer* doth cause the Proclamations to be endorsed, when they be all proclaimed: This Office is in the Kings Gift. There is also a *Custos brevium & rotulorum* in the Kings Bench, who fileth such Writs as are there used to be filed, and all Warrants of Attorney, and transcribeth or maketh out the Records of *Nisi prius*, &c.

Custos placitorum coronæ, *Bract. lib. 2. cap. 5.* This seems to be all one with him whom we now call *Custos Rotulorum*. Of this Officer mention is made in the Writ *Odio, & Atia, Reg. Orig. fol. 133.*

Custos Rotulorum, Is he that hath the custody of the Rolls or Records of the Sessions of Peace, and, as some believe, of the Commission of the Peace it self, *Lamb. Eiren. lib. 4. cap. 3. pag. 373.* He is always a Justice of Peace and *Quorum* in the County where he hath his Office, and by his Office is rather termed an Officer or Minister than a Judge, because the Commission of the Peace layeth by expresse words this special Charge upon him, *Quod ad dies & loca predicta, brevia, precepta, processus & indictamenta predicta coram te & aliis sociis tuis venire fac*, *Lamb. ibid.* Where yo may find a large Tract concerning this Office, who shall appoint the *Custos Rotulorum* in every County. See 37. H. 8. cap. 1. and 3. & 4. E. 6. cap. 1. & 2. *Inst. fol. 674.*

Custos of the Spiritualities, *custos Spiritualitatis vel Spiritualium*, Is he that exerciseth Spiritual or Ecclesiastical Jurisdiction of any Diocese in during the vacancy of the See. The appointment of whom, by the Canon Law, appertains to the Dean and Chapter, but at present with us in England to the Archbishop of the Province by Prescription; howbeit divers Deans and Chapters, if *Cwin say* truly in the Preface to his Readings, Do challenge this by antient Charters from the Kings of this Land.

Cutter of the Talleys, Is an Officer in the Exchequer, that provideth Wood for the *Talleys*, and cuts the sum paid upon them, and then casteth the same into the Court to be written upon.

Cupnage, Is a word used in the Statute of 11. H. 7. cap. 4. for the making up of Tin into that fashion as it is used to be framed, for the better carriage of it into other places.

Cyrickeat, Is a Saxon word, signifying a Tribute due to the Church, *Spelm. de Concil. vol. 1. fol. 125.* See *Charcheset*.

D.

Dakir, By the Stat. *de compositione ponderum & mensurarum*, 51 H. 3. A last of Hides consists of twenty *Dakirs*, and every *Dakir* of ten Hides: But by 1. Jac. cap. 33. a last of Hides is twelve dozen. See *Dicker of Leather, postea*.

Damage, *Dammum*, Generally signifieth any hurt or hinderance that a man taketh in his Estate, but in the Common Law it is a part of that the Jurors be to enquire of, passing for the Plaintiff or Defendant in a civil Action, be it perfonal or real. For after Verdict given of the principal cause, they are likewise ask'd their Consciences touching Costs (which be the Charges of Suit, called of the *Civilians Expense litis*) and *Damages*, which contain the hinderance that the Plaintiff or Demandant hath suffered, by means of the wrong done to him by the Defendant or Tenant, *Co. on Lit. fol. 257.* By the Statute 48. E. 3. 22. a means for the recovery of Damages was given to the Defendant in an Appeal, when he was acquitted of the Felony. And the Statute of *Westm. 2. Anno. 13. E. 1. cap. 12.* gave a more expeditious Redress than a Writ of Conspiracy against the Procurers and Abettors. This word *Damage* is taken in the Law in two several significations, the one properly and generally, the other strictly and relatively. Properly, as it is in cases where *Damages* are founded upon the Statute of 2. H. 4. cap. 1. and 8 H. 6. cap. 9. where Costs are included within this word *Damages*; for *Damage* in its proper and general signification is said a *demendo*, when a thing by diminution is made worse; and in this sense Costs of Suit are *Damages* to the Plaintiff, for by it his substance is diminished. But when the Plaintiff declares the wrong done to him, to the damage of such a sum, this is to be taken relatively, for the wrong which is passed before the Writ brought, and are assessed by reason of the *Trespas* aforesaid, and cannot extend to Costs of Suit, which are future, and of another nature. See *Co. lib. 10. fol. 116. 117.*

Damage cleere, *Damna clericorum*, Is now assessed by the tenth part in the *Common-Pleas*, and the twentieth part in the *Kings Bench* and *Exchequer* of all *Damages* (exceeding five Marks) recovered either by Verdict, Confession, or Judgment of the Court, in all Actions upon the Case, Covenant, *Trespas*, Battery, false Imprisonment, Dower, and all others, wherein the *Damages* are incertain, which the Plaintiff must pay to the *Prothonotary*, or chief

Officer of that Court, wherein they are recovered, before he shall have Execution for them. This was no other originally than a gratuity given to the *Prothonotaries* and their Clerks, for drawing special Writs and Pleadings, which afterwards grew to a certainty, and was as some have fancied of old, a tenth part of the *Damages* recovered; For it appears by ancient Records, that it hath been uncertain, sometimes a sixth, and at other times a third part. This is taken away by 17 *Car. 2. cap. 6.* from and after the 29. of September, 1672. and till that time to be paid out of such Moneys only as shall be actually levied, or otherwise paid by the Defendants, and only for the proportion of the Money which shall be so levied or paid, and no more or otherwise.

Damage feasant, That is, doing hurt or damage, & is, when a strangers Beasts are in another mans Ground, without licence of the Tenant of the Ground, and there do feed, tread, and otherwise spoil the Corn, Grass, Woods, and such like; In which case the Tenant, whom they damage, may therefore take, distrain, and impound them as well in the Night as in the Day. But in other cases, as for Rent and Services; and such like, none may distrain in the Night, Stat. *de districtione seccar. Anno 51. Hen. 3.*

Dane gelt, Dane-geld, or Dane-gilt, Danegildum, Is compounded of the word *Dane* and *Gelt*, that is, Money, and was a Tribute laid upon our Ancestors the Saxons, of twelve pence upon every Hide of Land through the Realm, by the *Danes*, who in those Dayes lorded it here, *Camd. Brit. 83.* with whom agree the Laws of St. Edward, set out by Lambert in his *Archæionomia, cap. 11.* Stow in his *Annals, pag. 118.* saith, This Tribute came to 40000 pounds per annum, and that it was released by Edward the Confessor. The Author of the *New Terms of the Law* saith, That this Tribute began in the Reign of King Ethelred, who being sore distressed by the continual Invasions of the *Danes*, to procure his Peace, was compelled to charge his People with insupportable Payments; for first, he paid them at five several times, 113000 pounds, and afterwards granted them 48000 pounds yearly. See *Rog. Hoveden, parte post. fur. annal. in H. 2. fol. 344. a.* and *Ignulphus, fol. 510. a. Spelm. Gloss. and Seldens mare clausum, fol. 190.*

Danelage. See *Merchenlage.*

Darreine, Is a corruption from the French *Dernier*, id est, ultimus, and we use it in the same sense, as

Darryne Continuance. See *Continuance.*

Darryne Presentment, Ultima presentatio. See *Assise of Darryne Presentment.*

Dates, Is the fruit of the Tree in Latine called *Palma*, in English the *Date-Tree*, of which, who will understand the nature or diversities, may read *Gerrard's Herbal, lib. 3. cap. 131.* They be numbred among Spices and Drugs to be garbled, 1. *Jac. 19.*

Day, Dies, Is sometimes used in the Law for the Day of Appearance in Court, either originally, or upon Assignment, and sometimes for the Returns of Writs. For example, *Dayes in Bank*, be dayes set down by Statute, or Order of

the Court, when Writs shall be returned, or when the Party shall appear upon the Writ served; and of this you may read the Statutes 51. H. 3. *cap. 1. 2. Marl. cap. 12. 52. H. 3. and 32. H. 8. cap. 21.* To be dismissed without day, is to be finally discharged the Court, *Kitchin. fol. 193.* He had a day by the Roll, *Id. fol. 197.* that is, he had a Day of Appearance assigned him. *Day, Year and Wait.* See *Dies and Year.*

Deadly feud, Feuda, Is a Profession of an unquenchable hatred, until we be revenged even by the death of our Enemy. It is derived from the German word *Feed*, which as *Hottoman* saith, *In verbis Feudalibus, modò bellum, modò capitalis inimicitias significat.* This word is used 43. *Elizabeth. cap. 13.*

Dead pledge, Mortuum vadium. See *Mortgage.*

Deafforested, That is, discharged from being Forest, or exempt from the Forest-Laws, 17. *Car. 1. cap. 16.*

Dean, Decanus, Is an Ecclesiastical Magistrate, so called of the Greek, *Ἄνα, decem*, because he hath power over ten Canons at the least: Howbeit in England we use to call him a *Dean* that is next under the Bishop, and chief of the Chapter ordinarily in a Cathedral Church; the rest of the Society we call *Capitulum*, the Chapter; how diversly this word is used, read *Linwood, tit. de judic. ca. pri. verbo Rural Dean.* Where *Deans Rural* are said to be some that have Jurisdiction Ecclesiastical over other Ministers and Parishes near adjoining, assigned unto them by the Bishop and Archdeacon being placed and displaced by them. As there be two Foundations of Cathedral Churches, the old and the new (the new be those which Henry the Eighth upon suppression of Abbot or Prior and Covent turned to Dean and Chapter); So there be two means of creating these *Deans*, for those of the old Foundation are brought to their Dignity much like Bishops, the King first sending out his *Commissaire*, to the Chapter, the Chapter there chusing, the King yielding his Royal assent, and the Bishop confirming him, and giving his *Mandat* to install him. Those of the new Foundation are by a shorter course installed, by vertue of the Kings Letters Patents, without either Election or Confirmation. This word is also applied to divers that are the chief of some peculiar Churches or Chappels, as *Dean of the Kings Chappel, Dean of St. Pauls, Dean of the Arches, Dean of St. Georges Chappel in Windsor, Dean of Bocking in Essex,* &c.

De bene esse, Are common Latine words, but their meaning something more dark; as thus, To take or do a thing *de bene esse* is to allow or accept for the present, till it comes to be more fully examined, and then to stand or fall, according to the merit of the thing in its own nature so that *valeat quantum valere potest.* So in Chancery, upon motion for one of the less principal Defendants to be examined, the Court sometimes will order it *de bene esse*, that is, he may be examined, but so, that upon hearing, and fully examining the Case, his Deposition may be allowed or suppressed, as the Court shall think fit. See *Langham's Case, Cro. 3. par. fol. 68.* So also at Common Law, the Judges frequently take Bayl *de bene esse*, that is, to be allowed or disallowed upon the exception

exception or approbation of the Plaintiffs Attorney, however in the interim they have a well-being or conditional allowance.

Debentur, Was a kind of writing, given in the late Times of Usurpation, to the Souldier, to secure the payment of his Arrears. but that is now out of doors. The word is mentioned in the *Act Of Oblivion*, 12. Car. 2. cap. 8. They use *Debenturs* also in the Exchequer. See *Auditor of Receipts*. In the Kings House also, *Debenturs* are given usually to the Kings Servants, for the payment of their Wages, Board wages, and the like.

Debet & solet, Are words frequently used by the writers of the Common-Law. For example, it is said in the *Old. Nat. Brev. fol. 98*. This *VVrit De fella Molendini* being in the *debet & solet*, is a *VVrit of Right*, &c. And again, *fol. 69*. a *Writ of Quod permittat* may be pleaded in the County before the Sheriff, and it may be in the *Debet* and in the *Solet*, or the *debet* without the *solet*, according as the Demandant claimeth; wherefore note, that those Writs that be in this sort brought have these words in them as formal words not to be omitted: And according to the diversity of the Case, both *debet* and *solet*, or *debet* alone; that is, if a Man sue to recover any Right by a Writ, whereof his Ancestor was disseised by the Tenant, or his Ancestor, then he useth only the word *debet* in his Writ, because *solet* is not fit, by reason his Ancestor was disseised, and the Custom discontinued; but if he sue for any thing that is now first of all denied, then he useth both these words, *debet & solet*, because his Ancestors before him, and he himself usually enjoyed the thing sued for, as suit to a Mill, or Common of Pasture, until the present refusal of the Tenant. The like may be said of *Debet & Detinet*, as appeareth by the *Reg. Orig.* in the writ *de debito*, *fol. 140 a*.

Debitor, Is a writ which lyeth, where a Man oweth to another a certain sum of Money upon an Obligation, or other Bargain, for any thing sold unto him, *F. N. B. fol. 119*. This writ is sometimes made in the *detinet*, and not in the *debet*, which properly falleth out, where a Man oweth an Annuity, or a quantity of Wheat, Barley, or such like which he refuseth to pay, *Old Nat. Brev. fol. 75*. See before *Debet & solet*.

Decem tales. See *Tales*.

Decies tantum, Is a writ that lyeth against a Juror, which hath taken Money for the giving of his Verdict; called so of the effect, because it is to recover ten times so much as he took: It lyeth also against Embracers, that procure such Enquest, *38. E. 3. cap 13. Reg. Orig. fol. 188. F. N. B. fol. 171 New Book of Entries, verbo Decies tantum*.

Deceit, Deceptio, fraus, dolus, Is a subtle, wily shift or device, having no other name: Hereto may be drawn all manner of craft, subtilty, guile, trapd, wiliness, flight, cunning, covin, collusion, practice and offence used to deceive another man by any means, which hath none other proper or particular name but offence, *West. Symbol. part. 2. tit. Indisements, fella. 68*. See *Coffening*.

Decenna and Decenniers. See *Decenners*.

Decennary, Decennaria, The limits or

compass of ten *Friburghs*. See *Deciners*.

Deceptione, Is a writ that lyeth properly against him, that deceitfully doth any thing in the Name of another, for one that receiveth damage or hurt thereby, *F. N. B. fol. 95*. This writ is either *original* or *judicial*, as appeareth by the *Old Nat. Brev. fol. 50*. where you may read the use of both; for some satisfaction, take the words of that Book: This writ of *Deceit*, when it is *original*, lyeth in case where *deceit* is used by one Man to another, by which *deceit* he may be disherited, or otherwise evil intreated, as it appeareth by the *Register, &c.* And when it is *judicial*, then it lyeth out of the Rolls of Record; as in case where *Scire facias* is sent to the Sheriff; that he warn a man to be before the Justices at a certain day, and the Sheriff return the writ served, whereas the said man was not warned, by which the Party that sued out the *Scire facias* recovereth; then the Party which ought to have been warned shall have the said writ against the Sheriff. In the *Termes of the Law, verbo Deceit*, it is said, That the *original* writ of *deceit* lyeth, where any *deceit* is done by a man to another, so that he hath not sufficiently performed his Bargain or Promise: In the writ *judicial*, he concurrereth with the former Book. See *Reg. Orig. fol. 112*. and the *Regist. Judicial*, in the *Table, verbo Deceptione*.

Decimation, Decimatio, The punishing every tenth Souldier by lot, was termed *Decimatio Legionis*: It may be stretched to signifie Tything, or paying the tenth part. There was another sort of *Decimation* in the late Times of Usurpation, which too many of his Majesties Loyal Subjects have so much sad cause to remember that I need not renew the Memory of it.

Decimis solvendis pro possessionibus alienigenarum, Is a Writ, or Letters Patents, yet extant in the *Register*, which lay against those that had farmed the Priors Aliens Lands of the Kings, for the Rector of the Parish, to recover his Tythe of them, *Reg. Orig. fol. 179*.

Deciners, alias Decenniers, alias Dozers, Decennarii, Consisteth of the French *Dizeine*, i. *Decas*, ten: It signifieth in the ancient Monuments of our Law, such as were wont to have the oversight and check of ten *Friburghs*, for the maintenance of the Kings Peace; and the Limits or Compass of their Jurisdiction was called *Decenna*, *Bract. lib. 3. traft. 2. cap. 15*. Of whom you may also read, *Fleta, lib. 1. cap. 27*. and *Reg. Orig. fol. 98. b*. These seemed to have large Authority in the Saxons time, taking cognisance of Causes within their Circuit, and redressing Wrongs by way of Judgment, as you may read in the Laws of King Edward, set out by Lamb. *num. 32*. In latter times mention is made of these, as in *Britton, cap. 12*. who saith in the Kings Person (as he writeth his whole Book in that manner) We will that all those that be fourteen years old, shall make Oath, That they will be sufficient and loyal to Us, and that they will neither be Felons, or assenting to Felons; and we will that all be *en dozeine & pleon per dozers*, that is, profess themselves of this or that *dozeine*, and make or offer Surety of their Behaviour by these or those *Dozeniers*, except Religious Persons, Clerks, Knights, and their eldest Sons, and *VVo-*

Women : Yet the same Author in his 29. chap. toward the end, doth say, That all of twelve years old, and upward, are punishable for not coming to the Turn of the Sheriff, except Earls, Prelates, Barons, Religious Persons, and Women, *Stamf. pl. cor. fol. 37.* Out of Fitzherbert hath these words, The same Law is, where the *Dozeniers* make presentment, that a Felon is taken for Felony; and delivered to the Sheriff, &c. And *Kitchin* out of the Register, and *Bretton* saith thus, Religious Persons, Clerks, Knights, or Women shall not be *Deciniers*, *fol. 33.* from all which premises may be gathered, that of later times, this word signifieth nothing but such a one as by Oath of Loyalty to his Prince, is settled in the Combination or Society of a *Dozein*. And a *Dozein* seemeth to extend so far as every Leet extendeth, because in Leets onely this Oath is ministred by the Steward, and taken by such as are twelve years old, and upwards, dwelling within the compass of the Leet, where they are sworn, *F. N. B. fol. 161. a.* The particular of this Oath you may read in *Bracton*, *lib. 3. tract. 2. cap. 1. num. 1.* where he setteth down fifteen years for the age of those that are sworn to the Kings Peace, but *Lib. 3. tract. 2. cap. 11. num. 5.* he nameth twelve years, see *Inlaughe* : From hence we may note the diversities between the ancient and present times, in this point of Law and Government, as well for the age of those that are to be sworn, as also that *Decemier* is not now used for the chief man of a *Dozen*, but for him that is sworn to the Kings Peace. And lastly, That now there are no other *Dozens*, but Leets, and that no man ordinarily giveth other Security for the keeping of the Kings Peace, but his own Oath. And that therefore none answereth for anothers Transgression, but every man for himself. See *Frank Pledge*, and *2. par. Inst. fol. 37.*

Declaration, *Declaratio*, Is a shewing in Writing the grief and complaint of the Demandant or Plaintiff, against the Defendant or Tenant, wherein he is supposed to have received wrong. And this ought to be plain and certain, both because it impeaches the Defendant, and also compels him to answer thereto. Such a Declaration in an Action real is termed a *Count* ; Note, that the *Count* or Declaration ought to contain *Demonstration*, *Declaration* and *Conclusion* : In *Demonstration* are contained three things. *Quis queritur, contra quem, & pro qua causa.* In the Declaration there ought to be comprised, *Quomodo inter partes actio accrevit, quando & qua die, anno & loco & cui dabitur.* And in the Conclusion, he ought to aver, and profer to prove his Suit, and shew the Damages he hath sustained by the wrong done him. See *Count*.

Decretals, *Decretales*, Are a Volume of the Canon-Law, containing the Decrees of sundry Popes, or else a digest of the Canons, of all the Councils that pertained to one matter, under one Head

Wedi, Is a Warranty in Law to the Feoffee and his Heirs, as if it be said in a Feoffment *A. B. bath given and granted, &c.* It is a Warranty, Co. on *Lit. 384. a.*

Dedimus potestatem, Is a Writ whereby Commission is given to a private man, for the speeding of some Act appertaining to a Judge.

The *Civilians* call it *Delegationem* ; And it is granted most commonly upon Suggestion, that the Party which is to do something before a Judge, or in Court, is so feeble, that he cannot travel : It is used in divers Cases, as to make a personal Answer to a Bill in Chancery, to make an Attorney for the following of a Suit in the County, Hundred, Wapentake, &c. *Old. Nat. Brev. fol. 20.* To levy a Fine, *West. Symbl. part 2. tit. Fines, sect. 112.* and divers other effects, as you shall see by *F. N. B.* in divers places. In what diversity, of Cases this Writ or Commission is used. See in the Table of the Register *Orig. verbo Dedimus Potestatem.*

Deeds, *Facta*, Signifie in our Common-Law, Writings that contain the effect of a Contract made between man and man, which the *Civilians* call *literarum Obligationem* : They may be written in Parchment or Paper, but, chiefly in Parchment, and to consist of three things, writing, sealing, and delivery : Of these Deeds there be two sorts, Deeds indented, and Deeds Poll, which division, *West* in his *Symbol. part. 1 lib. 1. sect. 46.* saith. Grows from the form or fashion of them, the one being cut in the fashion of dents in the top or side, and therefore called *Indentures*, the other being plain. And the definition of a Deed indented he expresseth thus, *sect. 47.* A Deed indented, is a Deed consisting of two parts, or more, wherein it is expressed, That the Parties to the same Deed have to every part thereof interchangeably, or severally set their several Seals. See the rest there, where at last he shews the cause of the Name, viz. for that consisting of more parts, each part is indented, or cut one of them into the other, that by the cut it may appear they belong to one Business or Contract. A Deed-Poll or polled, he describeth thus, *sect. 46.* A polled Deed is a Deed testifying that only one of the Parties to the Bargain hath put his Seal thereto, after the manner there by him described. See also *Termes de la Ley, verbo Fair.*

Demsters or Demsters, Are a kind of Judges in the *Iste of Man*, who, without Process, Writings, or any Charge, decide all Controversies there ; and they are chosen from among themselves, *Camb. Brit. tit. Brittish Isles.*

Deer-hays, *Anno 19 H. 7. cap. 11.* makes them to be Nets or Engins made of Cords to catch Deer.

De essendo quietum de Tolonio, Is a writ which lyeth for them, which are by Priviledge freed from the payment of Toll, of which read at large *F. N. B. fol. 226.*

De expensis Millicum, Is a writ commanding the Sheriff to levy so much a day for the expences of a Knight of the Shire, and a like writ to levy two shillings a day for every Citizen and Burges called *De expensis Civium & Burgenfium*, *4. Inst. fol. 46.*

De facto, A thing actually done, done in very Deed.

Default, *Defalta*, Cometh from the French *Default*, and is an Offence in omitting that which we ought to do, *West. Symbl. part. 2. tit. Indictment, sect. 2.* Of this *Bracton* hath a large Discourse, *lib. 5. tract. 3.* By whom it appeareth, That a Default is most notoriously taken for nonappearance in Court at a day assigned. Of this you may read *Fleta, lib. 6. cap. 14.*

Defa-

Defamation, Defamatio, Is, when a man speaks slanderous word of another man, of a Court of Justice, Magistracy, or Title of Land; for which the Party shall be punished according to the nature and quality of the Offence. Sometimes by Action upon the Case for Slander; at other times in the Ecclesiastical Courts; as if a man contrive any false lies against Prelates, Dukes, Earls, &c. then an *Actio de Scandalis Magnatum* will lie by the Stat. 2. R. 2. cap. 5. But for Defamations in the Spiritual Court to be determined, they ought to have three incidences. First, To concern matter merely spiritual, and there tryable, as to call a man Heretick, Schismatick, Adulterer, &c. Secondly That it concern matter merely spiritual. Thirdly, That is onely for punishment of the Fault, for the Soules health of him that offends. For the Slander or Defamation of a Title of Lands, see *Co. lib. 4. fol. 18.*

Defeizance, Cometh of the French *Defaysre* or *Defayr*, that is, *infestum reddere quod factum est*, and signifieth a Condition relating to a Deed, as an Obligation, Recognizance or Statute, which being performed by the Obligor or Recognisor, the Act is disabled and annulled, as if it had never been done. And the difference between a Proviso or Condition in a Deed and a Defeizance, is this, that a Proviso or Condition is annexed or inserted in the Deed or Grant, whereas a Defeizance is usually a Deed by it self. For the form and manner of Defeizances, according to the diversity of the case, see *West Symbol. part 1. lib. 2. fol. 156. & 230, 231.*

Defend, Defendere, Signifies in our ancient Laws and Statutes as much as to forbid and prohibit, *Leg. Ed. Conf. cap. 37. & 5. R. 2. cap. 7.* In the same sense Chaucer uses it in these words,

Where can you say, in any manner Age,
That ever God defended Marriage.

And in 7 E. 1. we have a Statute intituled, *Statutum de defensione portandi arma, &c.* It is defended, that is, forbidden to distrain upon the Highway, *Co. on Lit. fol. 161.* nay, in common speech Men frequently say, *God defend*, instead of *God forbid*; and the fence moneth is more properly the defence moneth, that is, the forbidden moneth, or *tempus vetitum*, *Manwood's Forest Law, cap. 13. num. 1.* See fence moneth.

Defence, Is that which the Defendant ought to make immediately after the Count or Declaration made, that is, that he defends all the wrong force and damage, &c. and then to proceed either in his Plea, or to imparle. See more, *Termes de lay Ley, verbo Defence.*

Defendant, Defendens, Is he that is sued in an Action personal; as Tenant, is he which is sued in an Action real, *Termes de lay Ley.*

Defendimus, Is an ordinary word in a Feoffment or Donation, and hath this force, that it bindeth the Donor and his Heirs to defend the Donee, if any man go about to lay any servitude upon the thing given, other than is contained in the Donation, *Bracton, lib. 2. cap. 16. num. 10.* See also *Warrantizabimus & Acquietabimus.*

Defender of the Faith, Defensor Fidei, Is a peculiar Title given to the King of England by the Pope, as *Catholicus* to the King of Spain,

and *Christianissimus* to the French King. It was first given by Leo the Tenth to King Henry the Eighth, for writing against Martin Luther in behalf of the Church of Rome, then accounted *Domicilium fidei Catholicæ*, *Stow's Annals, pag. 863.* The Bull for it bears Date *Quinto Idus, Octob. 1521.* and may be read at large in the Lord Herberts History of Henry the Eighth, fol. 105.

Deforcement, Deforciamentum, A withholding Lands or Tenements by force from the right Owner. See *Mat. Paris, fol. 422.* and *Co. on Lit. fol. 331. b.* See *Deforceor.*

Deforciant, The same with *Deforceor*, *Anno 23 Eliz. cap. 3.*

Deforceor, Deforcior, Cometh of the French *Forceur, expugnator*: In the sense of the Law it signifies one that overcometh, and casteth out by force; and differeth from Disseisor first in this, because a man may disseise another without force, which Acts is called *Simple disseisin*, *Britton, cap. 53.* next, because a man may deforce another that never was in possession. As for example, If more have right to Lands as common Heirs, and one entering, keepeth out the rest, the Law saith That he deforceth them, though he do not disseise, them. *Old Nat. Brev. fol. 118.* And Littleton in his Chapter *Discontinuance, fol. 117.* saith, That he which is infeoffed by the Tenant in tail, and put in possession, by keeping out the Heir of him in the Reversion, being dead, doth deforce him, though he did not disseise him, because he entred when the Tenant in tail was living, and the Heir had no present Right. And a Deforceor differeth from an Intruder, because a man is made an Intruder by a wrongful Entry only into Lands or Tenements void of a Possessor, and a Deforceor also is, by holding out the right Heir, as above said, *Bracton, lib. 4. cap. 1.* See more of this in *Poltun de pace Regis, fol. 34, 35.*

Se Defendendo, In defending himself, as if one Man assail another, and he which is assailed fly till he cometo a River side, or Wall, that hinders him to fly any further, and there he resists the Violence offered to him, and kill the other; this is said to be done *Se defendendo*, and the Law putteth him to sue out his Pardon of course, and Punisheth him by forfeiture of Goods, *Bacon's Collections of the Law.*

Degrading. See *Disgrading.*

Delegates, The Stat. 26 H. 8. cap. 19. sayes, Are Commissioners delegated or appointed by the Kings Commission, to sit upon an Appeal to him in the Court of Chancery, and is granted in three Cases. First, VVhen a Sentence is given in any Ecclesiastical Cause by the Archbishop, or his Official. Secondly, VVhen any Sentence is given in any Ecclesiastical Cause in places exempt. Thirdly, VVhen Sentence is given in the Admiralty in Suits Civil and Marine, by order of the Civil-Law. 4 par. *Inst. fol. 339. Anno 8 Eliz. cap. 5.*

Deliverance. See *Replegiare.*

Delfe, From the Saxon *delpen* to dig; we still retain the word *Delve*, for dig; is a Quarry or Mine where Stone or Coal is digged, *Anno 31 Eliz. 2. cap. 7.* And Camden mentions a Charter of Edward the Fourth, wherein mention is made of a Mine or Delfe of Copper.

Demaine or **Demefne**, *Dominicum*, Is a French word otherwise written *Demaine*, and fignifieth *Patrimonium Domini*, as *Hotoman* faith, *In verbis feudalibus, verbo Dominicum*, where by divers Authorities he proveth thofe Lands to be *Dominicum*, which a man holdeth originally of himfelf, and thofe to be *feodum* which he holdeth of a fuperior Lord. And by the word *Domanium* as *Demanium*, are properly fignified the Kings Lands in France, appertaining to him in property. In like manner do we ufe it in England, although we have no Land (that of the Crown onely excepted) which holdeth not of a fuperior, for all dependeth either mediately or immediately of the Crown, wherefore no common perfon hath any *Demaynes* fimplly underftood; For when a man in pleading, would fignifie his Land to be his own, he faith, That he is or was feized thereof in his *Demayne*, as of Fee, *Lit. lib. 1. c. 1.* whereby he meaneth, that although his Land be to him and his Heirs for ever, yet it is not true *Demayne*, but depending upon a fuperior Lord, and holding by Service, or Rent in lieu of Service, and by both Service and Rent; yet thefe words have been ufed in the Kings Right, 37. H. 8. cap. 16. and 39. El. 22. But the application of this fpeech to the King and Crown Land is crept in by error and ignorance of the word Fee. *Britton, cap. 78.* fheweth, That this word *Demayne* is diversly taken; fometimes more largely, as of Lands and Tenements held for life, &c. and fometimes more ftrictly, as for fuch onely as are generally held in Fee. This word fometime is ufed for a diftinction between thofe Lands, that the Lord of the Mannor hath in his own hands, or in the hands of his Leffee, demifed upon a Rent, for term of Years or Life, and fuch other Land appertaining to the faid Mannor, which belongeth to Fee or Copy-holders. Howbeit, the Copy-hold belonging to any Mannor, is alfo in the Opinion of many good Lawyers accounted *Demaynes*, *Bracton, lib. 4. traft. 3. cap. 9. num. 5.* faith, *Eft autem Dominicum, quod quis habet ad mensam fuam & propriam, ficut funt Bordlands Anglice. Item dicitur Dominicum Villanagium, quod traditur villanis quod quis tempeftive & intempeftive fumere poffit pro voluntate fua & revocare.* Of this *Fleta* alfo writeth much after the fame manner, *Lib. 5. cap. 5. fect. Dominicum autem.* And the reason why Copy-hold is accounted *Demaynes*, is becaufe they that be Tenants to it, are judged in Law to have no other Right, but at the will of the Lord; fo that it is reputed ftill after a fort to be in the Lords hands. And yet in common fpeech, that it is ordinarily called *Demeans*, that is, neither Free nor Copy. And here note, That *Demayne* is fometime ufed in a more fpecial fignification, and is oppofite to *Frank Fee*. For example, Thofe Lands which were in the poffeffion of *Edward the Confefor*, are called *ancient Demaine*, and others be called *Frank Fee*, *Kitchin, fol. 98.* And the Tenants which hold any of thofe Lands be called Tenants in *ancient Demaine*, the others Tenants in *Frank Fee*, *Kitchin, ubi fupra.* And alfo Tenants of the Common-Law, *Wefl. Symbol. part. 2. tit. Fines. fect. 25.* The reason is, becaufe Tenants in *ancient Demaine* cannot be fued out of the Lords Court, *Termes de lay Ley, verbo Ancient Demaine.* And fuch Tenants, though they hold all by the Verge, and have none other Evidence, but Copy

of Court-Roll, yet are they faid to have *Free-hold*, *Kitchin 81.* See *Antient Demefne*. See more on this Subject in the learned *Spelman, verbo Domini cum.*

Demaine cart of an Abbot, Seems to be that *Caft* which the Abbot ufeth upon his own *Demaine*, *Anno 6. H. 3. cap. 21.*

Demand, *Postulatio*, fignifies a calling upon a Man for any thing due. It hath alfo a more proper meaning diftinguifhed from *Plaint*; for all civil Actions are purfued either by *Demands* or *Plaints*, and the Purfuer is called *Demandant* or *Plaintiff*, viz. *Demandant* in Actions *real*, and *Plaintiff* in *perfonal*. If a man releafe to another all *demands*, this is the beft Release can be given, and fhall enure moft to his advantage that hath it, *Lit. fol. 117. a.* There are two manner of *Demands*, one in *Deed*, another in *Law*; In *Deed*, as in every *Præcipe* there is exprefs *Demand*: In *Law*, as every Entry in Land, *Distrefs* for Rent, and fuch like acts are *demands* in Law. See more concerning Release of all *Demands*, *Co. lib. 8. fol. 153. 154.*

Demandant, *Petens*, Is the *Plaintiff* in a real Action fo called, becaufe he *demandeth* Lands, &c. *Co. on Lit. fol. 127.*

Demyhaque. See *Haque* and *Haquebuz*.

Demife, *Dimiffio*, Is applied to an Eftate either in Fee-fimple, Fee-tail, or for term of Life, and fo it is commonly taken in many Writs, 2. par. *Inf. fol. 483.* The Kings death is in Law termed *The demife of the Kings*.

Demifters. See *Deemfters*.

Demurrer, In Latine *Demorare*, Cometh of the French word *Demurer*, that is, *manere in aliquo loco*. It fignifies in our Common-Law a kind of pause upon a point of difficulty in any Action, and ufed fubftantively; for in every Action the Controverfie confifteth either in the *Fact*, or in the *Law*; if in the *Fact*, that is tryed by the Jury; if in the *Law*, then is the Cafe plain to the Judge, or fo hard and rare, that it breedeth juft doubt: I call that plain to the Judge, wherein he is affured of the Law, though perhaps the Party and his Council yield not to it, and in fuch cafe the Judge, with his Associates, proceedeth to Judgment without farther work; but when it is doubtful to him and his Associates, there is then a ftay made, and time taken, either for the Court to confider further of it, and to agree if they can; or elfe for all the Juftices to meet together in the *Exchequer Chamber*, and upon hearing of that, the Council fhall ftay on both parts to advife, and fet down what is Law; and whatfoever they conclude, ftandeth firm without farther remedy, *Smith de Repub. Angl. lib. 2. cap. 13.* In *Chancery* the Defendant *demurs* to the Plaintiffs Bills averring it to be defective in fuch or fuch a point, and demands the Judgment of the Court thereupon, whether he fhall be compelled to make any further or other answer thereunto, &c. See *Moratur in Lege*.

Demy fanke ou Sangué, Of the half Blood, is, when the Man marries a Wife, and hath Issue by her a Son or a Daughter, and the Wife dies, and then he takes another Woman, and hath by her alfo a Son or Daughter; now thefe two Sons or Daughters are after a fort Brothers

thers or Sister, as we usually term them *half Brothers*, &c., or *Brothers of the half Blood*, because they had both one Father; but are not Brothers by the Mothers side, as having several Mothers, & therefore cannot be Heirs one to another, for he that shall Claim as Heir to one by Descent, must be of the whole Blood to him from whom he claims.

Denariata terræ. See *Farding-deal* of Land.

Denariatus, Precium rei quæ Denario constat. I have read *otto Denariatus annui redditus*.

Dena terræ, A hollow place between two Hills; you may find it in the beginning of *Doomsday Book*.

Dene, Dena, In the same Book signifies a Dale.

Denne, In the same Book stands for a Town.

Denelage, Denelagia, Is the Law that the Danes made here in England, out of which, and *Merchenlage* and *West Saxon-lage*, the Conqueror compounded certain Ordinances for his Subjects, *Camd. Brit. pag. 94. & 183.*

Denizen, From the French *Donaison*, i. *Donatio*, signifies in Law an Alien that is enfranchised by the Kings Charter, and inabled in all respects almost to do as the Kings native Subjects do, viz. to purchase and to possess Lands, and to be capable of any Office or Dignity; yet it is short of Naturalization, because a stranger naturalized, may inherit Lands by Descent, which a Man made only a *Denizen* cannot. And in the Charter, whereby a Man is made *Denizen*, there is commonly contained some one Clause or other, that abridgeth him of that full benefit which natural Subjects do enjoy. And when a Man is thus enfranchised, he is said to be under the Kings Protection, or *esse ad fidem Regis Angliæ*, before which time he can enjoy nothing in England, *Bract. lib. 5. tract. 5. cap. 25. num. 3.* Nay he and his Goods might be seized to the Kings Use, *Horne* in his *Mirror of Justices*, lib. 1. cap. de la Venue de francpledge, and 2. par. *Inst. fol. 741.* See also the Statute 27 H. 8. cap. 24. and *Co. lib. 7. Calvin's Case*. It seems that *Donaiso* is the right Name so called, because his Legitimation proceeds *ex donatione Regis*, from the Kings Gift.

De non Residentia Clerici Regis, Is an ancient Writ, whereof see the form in 2 par. *Inst. fol. 624.*

Deodand, Deodandum, Is a thing given, or rather forfeited, as it were, to God, for the pacification of his Wrath, in case of Misadventure, whereby any Christian man cometh to a violent end, without the fault of any reasonable Creature. For example, If a Horse should strike his Keeper, and so kill him: If a man in driving a Cart, and seeking to redress any thing about it, should so fall as the Cart-wheel running over him, should kill him: If one should be felling of a Tree, and giving warning to company by, when the Tree were near falling, to look to themselves, and any of them should be slain nevertheless by the fall of the Tree. In the first of these cases, the Horse; in the second, the Cart-wheel, Cart and Horses; and in the third, the Tree, is to be a *Deodand*,

that is, given to God; that is, to be sold and distributed to the Poor, for an Expiation of that dreadful Event, though effected by unreasonable, yea senseless and inanimate Creatures, *Stamf. pl. cor. lib. 1. cap. 2. Bract. lib. 3. tract. 2. cap. 5. Britton, cap. 7. and West. Symbol. tit. Indictments, sect. 49. Fleta, lib. 1. cap. 25 verbo de Submersis, saith, That this is sold, and the price distributed to the Poor, for the Soul of the King, his Ancestors, and all faithful People departed this Life; which Law is in imitation of that in Exodus, chap. 21. See Coke. lib. 5. fol. 110. and Plowdens Com. fol. 260. b.*

Omnia quæ movent ad mortem sunt Deodanda
What moves to death, we understand
Is forfeit as a Deodand.

This word is mentioned in the Statute *de Officio Coronatoris*, 4 E. 1. See 3. par. *Inst. fol. 57.*

De deoneranda pro rata portionis, Is a Writ that lyeth, where one is distrained for a Rent that ought to be paid by others proportionably with him. For example, A man holds ten Oxgangs of Land by Fealty, and ten shillings Rent of the King, and alienateth one Ox-gange to one, another to another in Fee; afterward the Sheriff, or other Officer cometh and distraineth only one of them for the Rent; he that is distrained may have this Writ for his help, *F. N. B. fol. 234.*

Departer or Departure, From a Plea, or Matter, is where a man pleads a Plea in bar of an Action, and being replied thereunto, doth in his Rejoinder shew another matter contrary to his first Plea, that is called a *Departure from his bar*, *Plowd. Com. fol. 7. 8. Reniger and Fogassa's Case*. It may also be applied to a Plaintiff, who in his Replication shews new matter from his Declaration, *Co. 2. par. fol. 147. Bagshawes Case*. So if a Man plead a general Agreement in Bar, and in his Rejoinder alledge a special one; this shall be adjudged a *Departure* in pleading. So in in Trespas, if the Defendant will plead a Discent, and the Plaintiff that after this the Defendant enscuffed him; and the Defendant saith, this Feoffment was upon condition, for the breach whereof he entered: This is a *Departure*, for it is new matter. Of this, see divers Examples in *Broke, tit. Departur de son plea*.

Departure in despite of the Court, Is, when a Tenant or Defendant appears to an Action and hath a day over in the same Term, or is called after, though he had no day given him, so that it be in the same Term; if he do not appear, but make Default, it is a *Departure in despite of the Court*, and therefore he shall be condemned. And here observe, That *Departure in despite of the Court*, is alwayes on the part of the Tenant or Defendant, and the Entry thereof is, *Quod predictus A. licet sollemniter exactus non re-venit sed in contemptum curiæ recessit & defaultum fecit*: And this is when in Judgment of the Law he is present in Court, and being demanded, departs in *Dispiight of the Court*. This amounts to a Bar in respect of the despite and contempt of the Court. See *Co. lib. 8. fol. 62.*

Departers of Gold and Silver. See *Finers*.

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Depopulation, Depopulatio, Is the laying wast, destroying and unpeopling of a place *Co. 12. Rep. fol. 30.*

Depopulatores agrorum, Were great Offenders by the Common-Law, as appears by the Statute 4. H. 4. 2. and were called *Depopulatores agrorum*, because by prostrating and ruining of Houles they seemed to depopulate Towns, that is, leave them without Inhabitants, 3. par. *Inst. fol. 204.* See also 13 *El. 10.* and 14 *El. 11.*

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Deputy, Is he that ex ercises in another mans Right, either Office or other things; and his Forfeiture or Misdemeanor shall cause the Officer, or him whose Deputy he is to lose his Office: But a man cannot make his Deputy in all Cases, except the Grant to be, as if it be with these, or such like words, *To exercise and use by himself, or his sufficient Deputy*; Or if the words go farther, *To himself, or his Deputy, or the Deputy of his Deputy.* Then he may make his Deputy, and his Deputy also may make a Deputy, or else not. As if the Office of a Parkership be granted to one, he cannot grant this over to another, because it is an Office of Trust and Confidence, and shall not be forfeited. And there is great difference between a Deputy and Assignee of an Office, for an Assignee hath an interest in the Office itself, and doth all things in his own Name; for whom his Grantor shall not answer, unless in special cases. But a Deputy hath not any interest in the Office, but is onely the shadow of the Officer, in whose Name he doth all things. And where an Officer hath power to make Assignes, he may implicitly make Deputies, for *cui licet quod majus est, non debet quod minus est non licere.* And a Sheriff may make a Deputy, or Under-Sheriff, although he have not such express words in his Patent.

De quibus sur disseisin, Is a writ of Entry. See *Fitzh. Nat. Brev. fol. 191.*

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Detinue, Detinendo, Is a Writ that lyeth against him, who having Goods or Chattels deliver'd him to keep, refuseth to deliver them again. See of this *F. N. B. fol. 138.* To this is answerable in some sort, *Actio depositi* in the Civil Law. And he taketh his Action of *Detinue*, that intendeth to recover the thing delivered, and not the Damages sustained by the *Detinue*, *Kitchin. fol. 176.* See the *New Book of Entries, verbo Detinue.*

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De son Toit demesme, Seem to be certain words of form in an Action of Trespass, used by way of Reply to the Plea of the Defendant: For example *A. sueth B. in an Action of Trespass, B. answers for himself, That he did that*

that which *A.* calleth a *Trespas*, by the Commandment of *C.* his Master. *A.* saith again, That *B.* did it *De son tort de demesne sans cō que C. luy command, modo & forma, &c.*

Debt or Det. Is a Writ that lies, where any sum of Money is due to a man by reason of Account, Bargain, Contract, Obligation, or other Specialty, to be paid at a certain day, which is not paid, then he shall have this Writ; but Action of *Debt* will not lie for Money due to a Lord by his Tenant for any Rent-service, but he must distrain for it. So for Rent-charge or Rent seck, which any man hath for Life, in Tail, or in Fee; he shall not have any Action of *Debt* as long as the Rent continues, but his Executors may have an Action of *Debt* for the Arrearages due in the life of their Testator, by the Stat. 32 H. 8. cap. 37. See more *Co. lib. 8. 147.*

Debaſſaverunt bona testatoris, Is a Writ lying against Executors, for paying Legacies and Debts without Specialty, to the prejudice of the Creditors that have Specialties, before the Debts upon the said Specialties be due: For in this case the Executors are as lyable to Action, as if they had waſted the Goods of the Testator riotously, or without cause, for such irregular and illegal Payments are accounted in Law a waſting of the Goods of the Testator, as much as if they had given them away without cause, or sold them, and converted them to their own use. See *Dyer, fol. 232. pla. 5.* And also the office of Executors, cap. 12.

Debeſtorunt, Is a Writ directed to the Escheator, when any of the Kings Tenants holding in *Capite* dies, and when his Son and Heir within age, and in the King's Custody, dies, then shall this Writ go forth, commanding the Escheator, that by the Oaths of twelve good and lawful men he inquire what Lands or Tenements, by the death of the Tenant, come to the King. See *Dyer, fol. 360. pla. 4.* But see the Stat. 12 Car. 2. cap. 24. and 14 Car. 2. cap. 11.

Deveſt. (*Deveſtire*) Is contrary to *Invest*; for as *Investire* signifies *poſſeſſionem tradere*, so *Deveſtire* is *poſſeſſionem auferre*, Feud. lib. 1. cap. 7.

Deviſe, or Diviſe, Cometh of the French *Diviſer, ſeparare, or Deviſer*, to conſer with. This word is properly attributed in the Common Law, to him that bequeaths his Lands or Goods by his laſt Will and Teſtament in writing, and he is called the *Deviſor*. And here we are to obſerve, That the Laws of the Realm, and the Judges thereof, favour Wills and Teſtaments, and *Deviſes*, in yielding to them ſuch a reaſonable Conſtruction as they think might beſt agree with the mind of the Deceſſed, and are more favourably interpreted in Wills than in Deeds: We will ſet down ſome few examples, as if one *deviſe* to *J. S.* by his Will all his Lands and Tenements, here not onely all thoſe Lands that he hath in poſſeſſion, but all thoſe that he hath in Reverſion, by virtue of the word *Tenements* paſſ. Again, if Lands be *deviſed* to a man, to have to him for ever, or to have to him and his Aſſigns; in theſe two caſes the *Deviſee* ſhall have a Fee ſimple: But if it be given by Feoffment in ſuch manner, he hath but an Eſtate for term of Life.---If one *deviſe* to an Infant in *ventre matris ſue*, it is a good *deviſe*; but otherwiſe by Feoffment, Grant or Gift: for in

theſe caſes there ought to be one of ability to take preſently, or otherwiſe it is void. See 1 *Eliz. Dyer 304.* and *Co. on Lit. fol. 111.* And this favourable allowance to Wills even the Heathens obſerved, as appears by theſe Verſes.

*Sed legum ſervanda fides, ſuprema voluntas
Quod mandati ſeriq; jubet, parere necesse eſt.*

*Laws muſt be reverenc'd; and what ere is laid
Upon us by a Will muſt be obey'd.*

Devoyres of Caleys, Is as much to ſay as a Duty. It is uſed in the Statute of 2 R. 2. Stat. 1. cap. 3. and 5 R. 2. Stat. 20 cap. 2. where it ſignifies the Cuſtoms brought to, or carryed out from *Caleys*, while our Staple remained there. See 34 E. 3. cap. 18. paying their Cuſtomes and *Devoyres* to the King.

Devoice alias Divorce, Divortium, Is with our Common Lawyſers accounted that ſeparation between two, *de facto* marryed together, which is a *Vinculo matrimonii, non ſolum a menſa ſed & a Thoro*, and therefore the Woman ſo divorced received all again that ſhe brought with her. This is not but onely upon a Nullity of the Marriage, upon ſome eſſential Impediment, as Conſanguinity or Affinity within the Degrees forbidden, Pre-contract, Impotency, or ſuch-like, of which Divines reckon Fourteen, according to theſe Verſes.

*Error, Candiſio, Volum, Cognatio, Crimen,
Cultus, Diſparitas, Viſ, Ordo, Ligamen, Honetas;
Si ſis affinis; ſi forte, coire nequibus;
Si Parochi & duplicis deſit preſentia teſtis,
Raptave ſit mulier, &c.-----*

For all theſe, ſee *Co. lib. 6. fol. 66. Co. lib. 5. fol. 98. 19. Lib. Aſſ. Pl. 2. Co. lib. 7. Keme's Caſe,* And *Co. on Lit. fol. 235.* In the old Law, the Woman divorced, was to have of her Husband a writing, which was called a *Bill of Divorce*.

Dicker of Leather, Is a quantity conſiſting of ten Hides: The name may ſeem to come from the Greek *Δεκα*, which ſomething reſembles the Latine word *Decem*.

Edictum de Kenelworth, Was an Edict between Henry the Third and his Barons, ſo called, becauſe it was made at *Kenelworth Caſtle* in *Warwickſhire*, 51 H. 3. containing a Compoſition of thoſe who had forfeited their Eſtates in that Rebellion.

Diem clauſit extremum, Is a Writ that lyeth for the Heir of him that holdeth Land of the King, either by Knights-service or Socage, and dyeth, be he under or at full age, directed to the Escheator of the County, to inquire of what Eſtate the Party dyed ſeiſed, and who is next Heir to him, and of what value the Land is. The form whereof, and other circumſtances, you may read in *F. N. B. fol. 251.*

Dyer, Was a learned Lawyſer, and Lord chief Juſtice of the Common-Pleas in Queen Elizabeths time, who writ a Book of great account, called his *Commentaries* or *Reports*.

Dies, There are four ſorts of *Dayes*, A day natural, and ſo the Scripture ſaith, *The Evening and the Morning made the firſt day.* 2. A day artificial,

Depopulation, Depopulatio, Is the laying wast, destroying and unpeopling of a place *Co. 12. Rep. fol. 30.*

Depopulatores agrorum, Were great Offendors by the Common-Law, as appears by the Statute 4. H. 4. 2. and were called *Depopulatores agrorum*, because by prostrating and ruining of Houses they seemed to depopulate Towns, that is, leave them without Inhabitants, 3. *par. Inst. fol. 204.* See also 13 *El. 10.* and 14 *El. 11.*

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Devest. (*Devestire*) Is contrary to *Invest*; for as *Investire* signifies *possessionem tradere*, so *Devestire* is *possessionem auferre*, Feud. lib. 1. cap. 7.

Devise, or Divise. Cometh of the French *Diviser, separare*, or *Deviser*, to confer with. This word is properly attributed in the Common Law, to him that bequeaths his Lands or Goods by his last Will and Testament in writing, and he is called the *Devisee*. And here we are to observe, That the Laws of the Realm, and the Judges thereof, favour Wills and Testaments, and *Devisees*, in yielding to them such a reasonable Construction as they think might best agree with the mind of the Deceased, and are more favourably interpreted in Wills than in Deeds: We will set down some few examples, as if one *devise* to *J. S.* by his Will all his Lands and Tenements, here not onely all those Lands that he hath in possession, but all those that he hath in Reversion, by virtue of the word *Tenements* pass. Again, if Lands be *devise* to a man, to have to him for ever, or to have to him and his Assigns, in these two cases the *Devisee* shall have a Fee simple: But if it be given by Feoffment in such manner, he hath but an Estate for term of Life. If one *devise* to an Infant in *ventre matris sue*, it is a good *devise*; but otherwise by Feoffment, Grant or Gift: for in

those cases there ought to be one of ability to take presently, or otherwise it is void. See 14 Eliz. *Dyer* 304. and *Co. on Lit. fol. 111.* And this favourable allowance to Wills even the Heathens observed, as appears by these Verses.

Sed legum servanda fides, suprema voluntas

Quod mandet, ferig; jubet, pareré necesse est.

Laws must be reverenc'd; and what ere is laid

Upon us by a Will must be obey'd.

Devoyres of Cateys. Is as much to say as a Duty. It is used in the Statute of 2 R. 2. Stat. 1. cap. 3. and 5 R. 2. Stat. 2. cap. 2. where it signifies the Customs brought to, or carryed out from *Cateys*, while our Staple remained there. See 34 E. 3. cap. 18. paying their Customes and *Devoyres* to the King.

Devoyce alias Divorce, Divortium. Is with our Common Lawyers accounted that separation between two, *de facto* marryed together, which is a *vinculo matrimonii, non solum a mensa sed et a Thoro*, and therefore the Woman so divorced received all again that she brought with her. This is not but only upon a Nullity of the Marriage, upon some essential Impediment, as Consanguinity or Affinity within the Degrees forbidden, Pre-contract, Impotency, or such like, of which Divines reckon Fourteen, according to these Verses.

*Error, Condicio, Volam, Cognatio, Crimen,
Cultus, Disparitas, Vis, Ordo, Ligamen, Honestas,
Si sis affinis; si forte, coire nequibus;
Si Parochi & duplici desit presentia testis,
Raptave sit mulier, &c.-----*

For all these, see *Co. lib. 6. fol. 66. Co. lib. 5. fol. 98. 19. Lib. Aff. Pl. 2. Co. lib. 7. Kyme's Case, And Co. on Lit. fol. 235.* In the old Law, the Woman divorced, was to have of her Husband a writing, which was called a *Bill of Divorce*.

Dicker of Leather. Is a quantity consisting of ten Hides: The name may seem to come from the Greek *Δίκας*, which something resembles the Latine word *Decem*.

Edictum de Kenelworth. Was an Edict between Henry the Third and his Barons, so called, because it was made at *Kenelworth* Castle in *Warwickshire*, 51 H. 3. containing a Composition of those who had forfeited their Estates in that Rebellion.

Diem clausit extremum. Is a Writ that lyeth for the Heir of him that holdeth Land of the King, either by Knights-service or Socage, and dyeth, be he under or at full age, directed to the Escheator of the County, to inquire of what Estate the Party dyed seised, and who is next Heir to him, and of what value the Land is. The form whereof, and other circumstances, you may read in *F. N. B. fol. 251.*

Dyer. Was a learned Lawyer, and Lord chief Justice of the Common-Pleas in Queen Elizabeths time, who writ a Book of great account, called his *Commentaries* or *Reports*.

Dies. There are four sorts of *Dayes*, A day natural, and so the Scripture saith, *The Evening and the Morning made the first day.* 2. A day artificial,

and that is a *crepusculo matutino usq; ad crepusculum vespertinum*. 3. *Dies astrologicus*, an Astrological day from Sun to Sun. 4. A legal day, and that is of two sorts, 1. *Dies Juridicus*. And 2. *Dies non Juridicus*. *Dies Juridici* are all dayes in Bank, Continuance, Essoin-dayes, and other dayes given in Term to the Parties in Court. *Dies non Juridici* are all Sundayes in the year, besides, in the several Terms particular dayes; as in Easter Term, *festum ascensionis Domini*; in Trinity Term, *festum sancti Johannis Baptiste*; in Michaelmas Term, *festum omnium Sanctorum*, & *festum omnium Animarum*; and in Hilary Term, *festum Purificationis beate Mariæ Virginis*. And this was the ancient Law of England, and yet in use, 2. par. Inst. 264.

Dies datus, Is a *Respite* given to the Tenant or Defendant by the Court, *Broke, tit. Continuance*.

Dieta rationabilis, Is used in *Bracton* for a reasonable Dayes-Journey, *Lib. 3. part. 2. cap. 16*. It hath in the Civil-Law divers other significations not needful here to be set down, *v. vocab. Utriusq; juris*.

Dignitaryes, *Dignitarii*, Are such as are advanced to any Ecclesiastical Promotion, as Dean, Archdeacon, Prebendary, &c. 3. par. Inst. fol. 155.

Dignity Ecclesiastical, *Dignitas Ecclesiastica*, Is mentioned in the Statute 26 H. 8. cap. 3. and by the Canonists defined to be *administratio cum jurisdictione & potestate aliqua conjuncta*, *Glof. in cap. 1. de consuet. in sexto*, whereof you may read divers Examples in *Duarems de sacris Ecc. minister. & Benefic. lib. 2. cap. 6*.

Dilapidation, *Dilapidatio*, A wastful destroying, or letting of Building run to ruine and decay, for want of Reparation, 13 *Eliz. cap. 10*. and the Money recovered for *Dilapidations* shall be employed in the repair of the same Houses, 14 *El. 11*.

Dioces, *Diocesis*, A Greek word compounded of *dia* and *oikos*, and signifieth with us the Circuit of every Bishops Jurisdiction; for this Realm hath two sorts of Division, one into Shires or Counties, in respect of Temporal Policy; the other into *Dioceses*, in respect of Jurisdiction Ecclesiastical, of which last we reckon in England two and twenty, besides four in Wales.

Dieu son ad, These are words oftentimes used in our Law; and it is a Maxime, that the *Ad* of God shall prejudice no Man: And therefore if a House be beaten down by Tempest, or other *Ad* of God, the Lessee for Life or Years shall not only be quit in an Action of Waste brought against him, but hath by the Law a special interest to take Timber to build the House again, if he will for his Habitation, *Co. lib. 4. 63. & lib. 11. 82. a*. So, when the Condition of an Obligation consists in two parts in the Disjunctive, and both are possible at the time of the Obligation made, and afterwards one of them becomes impossible by the *Ad* of God; the Obligor is not bound to perform the other part, for the Condition shall be taken beneficially for him; *Co. lib. 5. 22*.

Dimihague. See *Hague*.

Dimidietas, The moyety or one half of a thing.

Disability, *Disabilitas*, Is, when a Man is disabled of, or made incapable to inherit or take a Benefice, which otherwise he might have done, which may happen four wayes, By the act of the Ancestor, by the act of the Party, by act of Law, and by the act of God. 1. *Disability* by the act of the Ancestor, as if a man be attainted of Treason or Felony; by this Attainder his Blood is corrupt, and thereby himself and his Children disabled to inherit. 2. *Disability* by the act of the Party himself; as if one man make a Feoffment to another that then is sole, upon condition, that he shall enfeof a third before M, and before M. or the Feoffment made, the Feoffee takes a Wife; he hath by that disabled himself to perform the Condition according to the Trust in him reposed, and therefore the Feoffor may enter, and outhim, *Lit. sess. 357*. So if I bind my self, that upon surrender of a Lease, I will grant a new Estate to the Lessee, and afterwards I grant over my Reversion: In this case, though I afterwards purchase the Reversion, yet I have forfeited my Obligation, because I was once disabled to perform it; *Co. lib. 5. fol. 21*. Also if a man be excommunicated, he cannot during that time sue any Action, but shall be thereby disabled, *Co. lib. 8. fol. 69*. and so in other cases. 3. *Disability* by act of Law, is properly when a man by the sole act of the Law is disabled, and so is an Alien born. And therefore if a man born out of the Kings Ligeance, will sue and Action, the Tenant or Defendant may say, That he was born in such a Country, out of the Kings Ligeance, and demand Judgment if he shall be answered; for the Law is our Birth-right, to which an Alien is an stranger, and therefore disabled to take any benefit thereby. 4. *Disability* by the act of God, as to be *Non compos mentis*, or *non sane memoria*, which so disables him, that in all cases where he gives or passes any thing or estate out of him, after his death it may be disannulled & avoided. And here observe, That it is a Maxime in our Law, That a man of full age shall never be received to disable his own Person, and this in capacity to disable himself, as to some is personal, extending onely to the Party himself; but as to others it is not personal, yet shall bind them as *Privies*. Now there are four manner of *Privities*, viz. *Privity in Blood*, as Heir. *Privity in Representation*, as Executors or Administrators. *Privies in Estate*, as Donee in Tail, the Reversion or Remainder in Fee, &c. And *Privies in Tenure*, as Lord and Tenant. Two of these may disable the person of the dead, which was *Non sane memoria*, or, &c. and shall avoid his Grants or Feoffments, viz. *Privies in Blood* may shew the disability of the Ancestor, and *Privies in Representation* the infirmity of their Testator or Intestate, *Co. lib. 4. fol. 123. 124*. See *Lit. sess. 405*. and *Co. lib. 8. fol. 43*.

Disalt, Signifieth as much as to disable, Littleton in his Chapter of *Discontinuance*.

Discarcatio, An unloading.

Disboscatio, A conversion of wood Grounds into Arable or Pasture; and as tarting. See *Assart*.

Discepte, Deceit and Deceptions. See also the New Book of Entries, verbo *Disceite*.

Discent, *Discentus*, In the French Descent, signifieth

signifieth in the Common-Law, an order or means whereby Lands or Tenements are derived unto any man from his Ancestors, as to make his *discent* from his Ancestors, *Old Nat. Brev. fol. 101.* Is to shew how, and by what degrees the Land in question came to him from his Ancestors; as first from his great Grand-father to his Grand-father, from his Grand-father to his Father, and so to him, or in such other like sort. This *discent* is either *lineal*, or *collateral*; *Lineal discent* is conveyed downwards, in a right line from the Grand-father to the Father, and from the Father to the Son, and from the Son to the Nephew, &c. *Collateral discent* is springing out of the side of the whole Blood, as Grand-fathers Father, Fathers Brother, &c. See *Termes de la Ley. and Lit. lib. 3. cap. 6. Stat. 32 H. 8. cap. 33. Co. on Lit. fol. 237.*

Disclaymer, Disclamium, Is a Plea containing an expresse denial or refusal; as if the Tenant sue a Replevin upon a Distress, taken by the Lord, and the Lord avow the taking of the Distress, saying, That he holdeth of him as of his Lord, and that he distrained for Rent not paid, or Service not performed; then the Tenant denying himself to hold of such Lord, is said to *disclaime*, and the Lord proving the Tenant to hold of him, he loseth his Land, *Termes de la Ley 274.* Also if a man deny himself to be of the Blood or Kindred of another in his Plea, he is said to *disclaime* his Blood, *F. N. B. fol. 197.* See also *Bro. tit. Disclaymer*: If a man arraigned of Felony, do *disclaime* Goods, being cleared, he loseth them, *Stamf. pl. cor. fol. 186.* See also *Co. lib. 8. fol. 62. Lit. sect. 146. Co. lib. 3. fol. 26. New Book of Entries, verbo Disclamer. Scene de verbor. Sign. verb. Disclamation.*

Discontinuance, Discontinuatio, Cometh of the French *Discontinuer*, that is, *cessare*, and signifieth in the Common-Law nothing else but an interruption, or breaking off, and is two-fold, *Discontinuance of Possession*, and *Discontinuance of Process*: The effect of *Discontinuance of Possession* is this, that a man may not enter upon his own Lands or Tenements alienated, whatsoever his Right be unto it, of his own self, or by his own authority; but must bring his Writ, and seek to recover possession by Law. See the *Termes of the Law, verbo Discontinuance. Institutes of the Common-Law, cap. 43. Co. Rep. lib. 3. Case Of Fines, fol. 85.* The effect of *Discontinuance of Plea or Process*, when the instant is lost, and may not be regained, but by a new Writ to begin the Suit a freish: For to be discontinued, and to be put fine die, is all one, and nothing else but to be dismissed finally the Court, *West. Symbol. part 2. tit. Fines, sect. 115.* So *Crompton* in his *Jurisdictions*, fol. 131. useth it in these words, If a Justice Seat be discontinued by the not coming of the Justices, the King may renew the same by his Writ, &c. In this signification *Fitzherbert* in his *Nat. Brev.* useth the word divers times, as *Discontinuance of Corrody*, fol. 193. To *discontinue* the Right of his Wife, 191 & 193. *Discontinuance of an Assise* 182 & 187. *Anno 31 Eliz. cap. 1. 12 Car. 2. cap. 4. 14 Car. 2. cap. 10. Co. on Lit. 325.*

Disfranchise, To take away from any one his Priviledge or Freedom, *14 Car. 2. cap. 31.* It is contrary to *Enfranchise*, which see.

Disgraving or Degrading, Degradatio, Is the punishment of a Clerk, that being delivered to his Ordinary, cannot purge himself of the Offence whereof he was convicted by the Jury, and is the privation of him from those Holy Orders which he had, as Priest-hood Deaconship, &c. *Stamf. pl. cor. 130. & 138.* There is likewise the *disgrading* of a Knight, Lord, &c. So Sir Andrew Harkley Earl of Carlisle was convicted, degraded, and attainted of Treason, *18 E. 2. Gorum Rege Rot. 34, 35.* And it is not to be omitted, that by the Common-Law there be two sorts of *disgrading*, one *summary*, by word onely, and another *solemn*, by devesting the Party degraded of those Ornaments and Rites, which be the Ensigns of his Order or Degree. See *Selden's Titles of Honour, fol. 787.* So by the Statute of *13 Car. 2. cap. 15. William Lord Mounson, Sir Henry Mildmay, and others therein named, were degraded, &c.* See the Act at large.

Disinheriton, Is an old word signifying as much as *disinheriting*. It is used in the Statute of *Vouchers* made, *20 E. 1. and in 8. R. 2. cap. 4.*

Disheriton, One that *disinheriteth*, or puts another out of his *Inheritance*, *3. E. 1. cap. 39.*

Dismes, Decima, Are Tythes, and signifieth the Tenth part of all the Fruits of the Earth, or Beasts, or our Labour due unto God; and so consequently to him that is of the Lords Lot, that is, our Pastor. It signifieth also the Tenths of Spiritual Livings, yearly given to the Prince, called a *perpetual Disme*, *2 & 3 E. 6. cap. 35.* which in ancient time were paid to the Pope, till Pope *Urbane* gave them to *Richard* the Second, to Aid him against the French King *Charles*, and those other that upheld *Clement* the Seventh against him, *Polydor. Virgil. Ang. Hist. lib. 20.* Lastly, It signifieth a Tribute levied of the Temporality, *Holinshed in H. 2. fol. 111.* Tythes are of three sorts, *Predial, Personal, Mixt*: *Predial Tythes* are of things that come of the ground onely, as Corn, &c. *Personal Tythes* are paid of such things as come of the labour and industry of Mans person, as Buying and Selling, &c. *Mixt Tythes* are of Calves, Lambs, Pigs, and such like.

Disparagement, Disparagatio, Is in a legal sense used especially for matching an Heir in Marriage under his or her Degree, or against decency. See *Cowells Institutes, tit. de Nuptiis, sect. 6. Co. on Lit. fol. 107. Lit. lib. 2. cap. 4.*

Disseisin, Disseisina, Signifieth an unlawful dispossession of a man of his Land, Tenement, or other immoveable or incorporeal Right, *Institutes of the Common-Law, cap. 15.* And how far this extendeth, see *Bract. lib. 4. cap. 3.* And therefore the Assises be called *Writs of Disseisin*, that lie against *Disseisors* in any case, whereof some be termed *little Writs of Disseisin*, being *Vicintiel*, that is, sueable before the Sheriff, in the County-Court. *Old Nat. Brev. fol. 109.* because they are determined by the Sheriff without Assise, *Reg. Orig. fol. 198. b.* as for Nufances of no great prejudice: *Disseisin* is of two sorts, either *simple*, committed by day without Force and Arms, *Bract. lib. 4. cap. 4. Brit. cap. 42, 43, 44.* where you shall find in what especially it is lawful, and in what not. *Brit. cap. 53.* And *disseisin* by force, for which see *De force*, see *Fresh-disseisin, Redisseisin, and Post-disseisin.* See also *Scene de verbor. Signif. verbo Disseisina.* How

many wayes it is committed, see *Fleta*, lib. 4. cap. 1. *scilicet*. fit autem, &c. and when it is lawful, cap. 2. wrongful *Disseisin* is no descent in Law, 32 H. 8. cap. 33.

Disseiso, Is he that putteth another out of his Land, and *Disseisee* is the person so put out, 4 H. 4. cap. 7.

Disseisette, Is a Woman that disseiseth another, Co. on Lit. fol. 357. b.

Disseisin upon Disseisin, Is where a *Disseisor* is disseised by another.

Distress, Signifies a Compulsion in certain real Actions, whereby to bring a man to appear in Court, or to pay Debt or Duty denied. The effect whereof most commonly is to drive the Party distrained to replevy the *Distress*, and so to take his Action of Trespass against the Distrainer, or else to compound Neighborly with him for the Debt or Duty for which the *distress* was made. In what cases a *distress* is lawful, see *New Termes of the Law*. The *Civilians* call it *Pignorum captionem*: There are divers things not distrainable, for a *distress* must be of a thing whereof a valuable property is in some Body, and therefore Dogs, Bucks, Conies, and the like, that the *sera natura*, cannot be distrained. 2. Although it be of a valuable property, as a Horse, (yet when a Man or Woman is riding of him) or an Axe (in a Mans hand cutting of wood, and the like, they are for that time privileged, and cannot be distrained. 3. Valuable things shall not be distrained for Rent, for benefit and maintenance of Trades, which by consequence are for the Common-wealth, and are by authority of the Law there; as a Horse in a Smiths Shop shall not be distrained for the Rent issuing out of the Shop, nor the Materials in a Weavers Shop for making Cloth, nor Cloth or Garments in a Taylors Shop, nor sacks of Corn or Meal in a Mill, nor in a Market, nor any thing distrained for *Damage-feasant*, for it is in *Custodia Legis*. 4. Nothing shall be distrained for Rent that cannot be rendered again in as good plight, as it was at the time of the *Distress* taken, as sheaves or flocks of Corn cannot be distrained for Rent, but for *Damage-feasant* they may. 5. Beasts belonging to the Plough *averia caruce* shall not be distrained, but Goods or *animalia otiosa* may be distrained. 6. Furnaces, Cauldrons, or the like, fixed to the Brechold; or the Doors or Windows of a House, or the like cannot be distrained. When one takes a *Distress* that hath life, he must bring it to the common Pound, or keep it in an open place, where the Owner may give it food. See the Stat. de *distractione Scaccarii*, 51 H. 3. Britton, cap. 71. divides *Distress* into real and personal; *Distress* real is made upon immoveable Goods, as the *Grand Cape* and *Petit Cape*. And thus it is interpreted by *Motoman de verb. Feudal*, verbo *Districus*. This differeth from an Attachment, in this point among others, that it cannot be taken by any common person, without the compass of his own Fee, F.N. b. 904. except it be presently after the Cattel, or other thing is driven or born off the Ground by him that perceiveth it to be in danger to be distrained. See *Attach* and the Stat. 17 Car. 2. cap. 7. *Distress* personal is made, by taking a mans moveable Goods, and detaining them for security of his appearance to the Suit. *Distress* is also di-

vided into *finite* and *infinite*; *Finite* is that which is limited by Law, how often it shall be made to bring the Party to Tryal of the Action, *Old Nat. Brev. fol. 43*. *Distress* infinite is without limitation, until the Party come, as against a Jury that refuseth to appear *super certificatione Absce*, where the Process is a *Venire facias*, *babeas corpora*, and *Distress* infinite, *Old Nat. Brev. 113*. Then it is again divided into a *Grand Distress*, 52 H. 3. cap. 7. which *Fitzherbert* calleth in Latine *Magnam distractionem*, *Nat. Brev. fol. 126*. and an ordinary *Distress*: A *Grand Distress* is, that which is made of all the Goods and Chattels the Party hath within the County, Britton, cap. 26. fol. 52. But see whether it be not sometimes all one with a *Distress* infinite, *Id. fol. 80*. with whom also the Statute of *Marlbridge* agrees, 52 H. 3. cap. 7. 9. 12. See *Grand Distress* and *Attachment*, also *Old Nat. Brev. fol. 71*.

Districus, Is sometimes used for the Circuit within which a man may be compelled to appearance, *Briston*, cap. 120. And whereas we say *Hors de son fief*, others use *extra districum suum*. So likewise *Reg. Orig. fol. 6*.

Districus, Is a Writ directed to the Sheriff, or any other Officer, commanding him to distrain one for Debt to the King, &c. or for his appearance at a day, as a *Districus Jurat. &c*. There is great variety of this Writ in the Table of the Register Judicial, verbo *Districus*.

Devise, See *Devise*.

Divided in the Exchequer, Seems to be one part of an Indenture, *Anno 10 E. 1. cap. 11* and 28. F. 1. Stat. 3. cap. 2.

Dividend in the University, Is that share or part which every one of the Fellows does justly and equally divide among themselves of their Annual Stipend.

Divorce, See *Devorce*.

Docket, Is a Brief in writing, *An. 2. & 3. P. & M. cap. 6*. *West* writeth it *Dogget*, by whom it seemeth to be some small piece of Paper or Parchment, containing the effect of a larger writing, *Symbol. part. 2. tit. Fines*, *scilicet*. 106.

To do Law, Facere Legem, Is the same with to make Law, 23. H. 6. cap. 14. See *Make*.

Doctor and Student, Is a Book containing certain Dialogues between a *Doctor* of Divinity, and a *Student* at the Common-Law, wherein are contained Questions and Cases, as well of the Equity and Conscience used in the Common-Law, as also a Comparison of the Civil, Canon, and Common Law together, very worthy the reading. The Author is said to be one Saint German, and the Book was written in the time of Henry the Eighth.

Dog-draw, Is an apparent deprehension of an Offender against Venison in the Forest. There be four of these mentioned by *Manwood* in his *Forest Law*, cap. 18. num. 9. viz. *Stable-band*, *Dog-draw*, *Back-bear*, and *Bloody-band*; where he saith, That *Dog-draw* is where any man hath stricken or wounded a wild Beast, by shooting at him either with Cross-Bow, Long-Bow, or otherwise, and is found with a Hound, or other Dog drawing after him to recover the same.

Dogger, A kind of little Ship, 31 E. 3 Stat. 3. cap. primo.

Doggerish,

Doggerfish, 31 E.3. Stat. 3. cap. 2. Seemeth to be Fish brought in those Ships to Blackneyhaven, &c.

Dogger-men, Anno 2 H. 8. cap. 4.

Dogget, See *Docket*.

Doitkin, A base Coin prohibited by 3 H. 5. cap. 1. Hence probably we retain that phrase when we would undervalue a man, to say, He is not worth a Doit or Doitkin.

Dole, *Dola*, A Saxon word, signifying as much as *Pars* or *Portio* in Latine: It hath of old been attributed to a Meadow, and still so called, as *Dole-meadow*, 4 Jac. cap. 11. because divers persons had shares in it; we still retain the word to signifie a share, as to deal a *Dole*; he dealt his *dole* among so many poor People, that is, he gave every one a share or part.

Dolefish, Seems to be that *Fish*, which the Fishermen yearly employ'd in the North-Seas, do of custom receive for their allowance. See the Stat. 35 H. 8. cap. 7.

Dolgbote, A recompence made for a Scar or Wound, Sax. *Dilhon*. Inter Reg. Aluredi Regis, cap. 23. legitur Dolgbot.

Dombor, A Saxon word signifying *Liber judicialis*, as appears by the Laws of King Edward the elder, cap. 8. This was probably a Book of Statutes proper to the English Saxons, wherein perhaps the Laws of former Saxon Kings were contained: That Chapter seeming to refer to the Laws of King Ina, cap. 29.

Domesday or **Domesdei**, *Liber Judicarius* and *Censualis Anglie*, Is a Book now remaining in the Exchequer. The Author of the *Old Nat. Brev.* fol. 15. saith, It was written in the time of St. Edward the Confessor, containing in it not only all the Lands through England, but also the Names of those in whose hands they were at that time: But Lambert proves it was made in the Conquerours time, with whom agrees Camden in his *Brit.* proving it out of *Ingulpus* that flourisht the same time, whose very words are these, *Totam terram descripsit, nec erat Hyda in tota Anglia, quin Valorem ejus et possessionem scivit, nec Locus nec Locus aliquis quin in Regis rotulo extitit descriptus, ac ejus redditus et proventus, ipsa possessio et ejus possessor Regie notitie manifestatus, juxta Taxatorum fidem, qui electi de qualibet patriq, territorium proprium describunt: Iste Rotulus vocat. est Rotulus Wintonie, et ab Anglis pro sua generalitate, quod omnia Tenementa totius terre continuit, Domesday cognominatur.* So it is called in the Statute 1 R. 2. cap. 6. This Book was also called *Liber Judicatorius*, or *Judiciarius*, quia in eo Regni descriptio diligens continetur et tom de tempore Regis Edwardi quam de tempore Regis Gulielmi, sub quo factus est, singulorum fundorum valentia exprimitur, as *Ockham* in his *Lucubrations*, de fisci Regis ratione, testifies: *Gervas Tilburienfis* saith, It was called *Doomsday*, Quod a predicto Judicio non liceat ulla ratione discedere. It was finish'd (saith *Stow*) in the Fourteenth year of William the Conqueror: Camden calls it *Censulem Gulielmi*, King Williams Taxebok. See more in *Spelm. Gloss.* and 4 *Inst.* 269.

Domitellus, Sir Edw. Co. 4. *Inst.* fol. 37 would seem to derive it from *Domicel*, a French word, as he sayes, though mistaken, for it is an old Latine word, and anciently given as an ad-

dition to the Kings natural Sons in France, see *Spelm. Gloss. verbo Domicellus*. This word is also used in a Charter of Legitimation of several Children of John of Gaunt, 20 R. 2. confirmed by Parliament at Westm. 9. die Febr.

Dominica in Ramis *Palmarum*, Is *Palm Sunday* so called, because on that day they used to distribute branches of *Palm* & other green Boughs in commemoration of our Lords riding into Jerusalem, and the People cut *Palm Boughs* &c. to strow in the way, crying *Hosanna*.

Domo Reparanda, is a Writ for one against his Neighbour, by the fall of whose house he seareth hurt to his own, *Reg. Orig.* fol. 153. In this case the *Civilians* have the Action de *damno infacto*.

Donative, Is a Benefice merely given and collated by the Patron to a man, without either Presentation to the Ordinary or Institution by his Ordinary or Induction by his commandment *F. N. B.* fol. 35. Of this *Petr. Gregor. de benefic.* cap. 11. num. 10. hath these words, *Si tamen capella fundata per Laicos non fuerint a Diocesano approbata & (ut loquuntur) Spiritualizata, non censentur Beneficia, nec ab Episcopo conferri possunt, sed sunt sub pia dispositione fundatoris.* And Mr. Gwin in the Preface of his *Readings*, saith, That as the King might of ancient times found a free Chappel, and exempt it from the Jurisdiction of the Diocesan So he might also by his Letters Patents licence a common person to found such a Chappel, and to Ordain, That it shall be *donative*, and not presentable, and that the Chaplain shall be deprivable by the Founder and his Heirs, and not by the Bishop, And this is most likely to be the Original of these *Donatives* in England. *Fitzherbert* saith, That there be some *Chantries* which a Man may give by his Letters Patents, *Nat. Brev.* 33. 42. All Bishopricks were in ancient time *Donative* by the Kings, *Co. lib.* 3. fol. 75.

Donor, and **Donce**, *Donor*, Is he who gives Lands or Tenements to another, and he to whom the same is given is the *Domee*.

Domee, (From the Saxon *Dom*) signifieth a Judgment or Sentence; a word much used in References to Arbitrators: We have several words that ends in *dom*, as Kingdom, Earldom, &c. so that it may seem to signifie the Jurisdiction of a Lord, or a King. See also *Mon. Ang.* 1. *Par.* fol. 284. a. *Habeat Gritthritch, et Forstal, et Dom, et Som. et Wreche in Mari.*

Dorture, *Dormitorium*, Anno 25 H. 8. cap. 11. Is the common Room, Place or Chamber, where all the Fryers of one Covent slept and lay all Night.

Dote assignanda, Is a Writ that lies for a Widow, where it is found by Office, that the Kings Tenant was seized of Tenements in Fee or Fee-tail at the day of his death, &c. and that he holdeth of the King in chief, &c. For in this case the Widow cometh into the Chancery, and there maketh Oath, That she will not marry without the Kings leave, Anno 15 E. 3. cap. 4. and hereupon she shall have this Writ to the Escheator; for which see *Reg. Orig.* fol. 297. and *F. N. B.* fol. 263. And this sort of Widows is called *The Kings Widow*. See *Widow*.

Dote unde nihil habet, Is a Writ of Dower, that lyeth for the Widow against the

Tenant, which bought Land of her Husband in his life-time, whereof he was seised solely in Fee-simple or Fee-tail, in such sort as the issue of them both might have inherited it, *F. N. B. fol. 147. Regist. fol. 170.*

Dotis admensuratio. See *Admensuramentum*, and the *Reg. Orig. fol. 171.*

Doubles, Anno 14 H. 6. cap. 6. signifie as much as Letters Patent, being a French word made of the Latⁿ: *Diploma.*

Double Plea, Duplex placitum, Is that wherein the Defendant alledgeth for himself two severall matters, in bar of the Action, whereof either is sufficient to effect his desire in debarring the Plaintiff. And this is not to be admitted in the Common-Law; wherefore it is well to be observed, when a Plea is double, and when not; for if a man alledge severall matters, the one nothing depending of the other, the Plea is accounted double. If they be mutually depending one of the other, then is it accounted but single, *Kitchin, fol. 223.* and see *Brooke, tit. Double Plea.* And Sir Tho. Smith gives this reason, why our Law admitteth not a double Plea, because the Tryal is by twelve ignorant men, whose heads are not to be troubled with over many things at once, *Lib. 2. de Rep. Angl. cap. 13.*

Domus Conversorum, See *Rolls.*

Domus Dei, The Hospital of St. Julian in Southampton so called, *Mon. Ang. 2. par. fol. 440. b.*

Double Quarrel, Duplex Querela, Is a Complaint made by any Clerk, or other, to the Archbishop of the Province against an inferior Ordinary, for delaying of Justice in some Cause Ecclesiastical, as to give Sentence, to institute a Clerk presented, or the like: The effect whereof is, that the said Archbishop taking knowledge of some delay, directeth his Letters under his authentical Seal, to all and singular Clerks of his Province, thereby commanding and authorising them, and every of them to admonish the said Ordinary, within a certain number of dayes; namely nine dayes, to do the Justice required, or otherwise to cite him to appear before him or his Official at a day, in the said Letters prefixed, and there to alledge the cause of his delay. And lastly, To intimate to the Ordinary, that if he neither perform the thing enjoyned, nor appear at the day assigned, he himself will without further delay proceed to perform the Justice required. And this seemeth to be termed a double Quarrel, because it is most commonly made against both the Judge, and him at whose Petition Justice is delayed.

Dowager, Dotata, A Widow endowed. But chiefly an addition applyed in General to the Widows of Princes, Dukes, Earls, and Persons of Honour.

Dower, Dos, Signifieth in our Common-Law two things: First, That which the Wife bringeth to her Husband, otherwise called *Maritagium*, Marriage-Goods; next and more commonly, that which she hath of her Husband after the Marriage determined, if she out-live him, *Glanville, lib. 7. cap. 1. Bract. lib. 2. cap. 38. Britton, cap. 101.* And in Scotland it signifie: the same, *Skene de verb. Signif. verbo Dos;* the former is in French called *Dot*, the other *Dowaire*: And accord-

dingly some Authors would distinguish the first by the name of *Dowry*. The second, Of *Dowier*, but they are often confounded. Of the former our Law Books say very little; This onely may be noted, That whereas by the Civil-Law, Instruments are made before Marriage, which contain the quantity of the Wives *Dowry*, or Substance brought to her Husband, that he having the use of it during Marriage, may, after certain deductions, restore it again to his Wives Heirs or Friends after the Marriage dissolved. The Common-Law of England, whatsoever Chattels moveable or immoveable, or ready Money she bringeth, doth make them forthwith her Husbonds own, to be disposed of as he will leaving her at his curtesie to bestow any thing or nothing upon her at his death. Onely if she be an Inheriatrix, the Husband holdeth the Land but during her life, except he have Issue by her; but then he holdeth it by the curtesie of England during his own life, see *Curtesie*. And again, if he have any Land in fee, whereof he was possessed during the Marriage, she is to have a third part thereof during her life, though she bring nothing to him, except she do by Fine release her Right during the Marriage. Therefore upon speech of Marriage between two, the Parents on both sides are commonly more careful in providing each for his Child than the Parties themselves; and by their means divers Bargains be made sometimes for the conveyance of Lands, &c. to them and by their Issue: And this said to be given in *Frank-Marriage*. Sometime to her during her life, and that before or at the Marriage: If before the Marriage, then it is called a *Joynture*; for a Joynture is a Covenant, whereby the Husband is tied *ratione juncturae*, in consideration of the Marriage, that the Wife surviving him shall have during her life, this or that Tenement or Lands, of thus much Rent yearly payable out of such Land, &c. with clause of Distress, and this may be more or less, as they do accord, *Britton, cap. 102, 103, 104, 110.* for *conventio vincit legem*, *Bract. lib. 5. tract. 4. cap. 9.* The diversities of these Joyntures you may read in *West Symbol. part 1. lib. 2. sect. 128, 129, 130, 131, 132, 133.* But if none of those Agreements be made before Marriage, then must the Wife stick to her *Dower*; and that is sometimes given *ad osium Ecclesie*, at the Church-door, and may be what the Husband will, so it exceed not a third part of his Lands, *Glanville, lib. 6. cap. 1.* or the half, as some say, *F. N. B. fol. 150.* And this *Dower* is either certainly set down and named, or not named, but onely in generality, as the Law requireth: If it be not named, then it is by Law the third part, and called *Dos Legitima*, *Bract. lib. 4. tract. 6. cap. 6. num. 6. & 10. Mag. Charta, cap. 7.* or the half, by the Custom of some Countries, as in *Gavelkind*, *F. N. B. fol. 150.* And though it be named, it seems that it cannot be above half the Lands of the Husband, *ibid.* And the Woman that will challenge this *Dower*, must make three things appear, viz. 1. That she was married to her Husband. 2. That he was in his life-time seised of the Land whereof she demandeth *Dower*. And 3. That he is dead, *Co. 2. Rep. fol. 93. Bingham's Case.* Of these things see *Glanville, lib. 6. cap. 1, 2, 3. Bract. lib. 2. cap. 38, 39. & lib. 14. tract. 6. cap. 1. & 6. and Britton, cap. 101, 102, 103, 104.* and *F. N. B. fol. 147, 148, 149, 150.* And this

Custo

Customary Dower seemeth to be observed in other Nations as well as in ours. See also *Co. on Lit. fol. 33. b.* If the Wife be past the age of nine years at the death of her Husband, she shall be endowed: If a Woman clope, or go away from her Husband with an Adulterer, and will not be reconcil'd, she loseth her Dower by the Statute of *Westm. 2. cap. 34. 2. par. Inst. fol. 433.* Camden in his *Brit. tit. Suffex*, relates out of the Parliament Records, 30 E. 1. A memorable Case of Margaret the Wife of Sir John Camoys, cited also in 2. *Inst. fol. 435.* which for brevity sake I omit, and desire you there to read at large.

Dozein, Decema, In the Statute for view of Frankpledge, made 18 E. 2. one of the Articles for Stewards in their Leets to inquire of, is, If all the Dozeins be in the Assise of our Lord the King, and which not, and who received them, Art. 3. See *Dociners*. There is also a fort of Devonshire Kersleys called *Dozens*, 5 & 6 E. 6. cap. 6.

Diage, Anno 6 H. 6. cap. 5. Seem to be Wood or Timber so joyned together, that swimming or floating upon the Water, they may bear a burden, or load of other Wares down a River.

Dowlatches, Anno 5 E. 3. cap. 14. and Anno 7 R. 2. cap. 5. Lambert in his *Eirenorcha*, lib. cap. 6. calleth them *Miching Thieves*, as *Wasters* and *Roberts Men*; *Mighty Thieves*, saying, That the words be grown out of use.

Droit-Droit. Signifies a double Right, that is, *Jus Possessionis* & *jus Dominii*, *Bract. lib. 4. cap. 27. & lib. 4. tract. 4. cap. 4. & lib. 5. tract. 5. cap. 5. Co. on Lit. fol. 266.*

Drenches or Drenges, Drengi, Were Tenants in Capite, sayes an ancient M. S. *Doomsday*, tit. *Leitr. Reg. Pictaviens Neuton*. They were, sayes *Spelman*, *E genere vassallorum non ignobilium, cum singuli qui in Domsday nominantur, singula possiderent Maneria*. Such as at the Conquest being put out of their Estates, were afterward restored; for that they being before Owners thereof, were against him neither by their Persons or Counsels, *Co. on Lit. fol. 5.* sayes, *Dreuches* misprinted there for *Drenches*, are free Tenants of a Mannor. See also *Mon. Ang. 2. par. fol. 598. a.*

Drengage, Drengagium, The Tenure by which the *Drenches* held their Lands, of which see *Trin. 21. E. 3. Ebor. & Northumb. Rot. 191.* And we may observe, sayes the learned *Spelman*, *Qui Drengorum classe erant, vel per Drengagium tenuere sua incoluisse Patrimonia ante adventum Normannorum.*

Drye Exchange, 3 H. 7. cap. 5. Cambium ficum, Seemeth to be a subtle term, invented to disguise a foul Usury, in which something is pretended to pass on both sides, whereas, in truth nothing passes but on the one side, in which respect it may be well called *Dry*: Of this *Lud. Lopes tractat. de Contract. & negotiat. lib. 2. cap. 1. sect. Deinde postquam*, writes thus, *Cambium est reale vel ficum, Cambium reale dicitur, quod consistitiam veri Cambii reale habet, & Cambium per trans & Cambium minutum*

Cambium autem ficum est cambium non habens existentiam Cambii sed apparentium ad instar arboris exsiccata, quae humore vitali jam carens apparentiam arboris habet, non existentiam. See also *Sum. Syl. verbo Usura. Quest. 6.*

Dry Kent, Kent seck. See *Rent*.

Drift of the Forest, Agitatio animalium in Foresta, Is an exact view or examination what Cattel are in the Forest, that it may be known whether it be overcharged or not, and whose the Beasts be. This *Drift*, when, how often in the year, by whom, and in what manner it is to be made. See *Manwood's Forest Laws*, cap. 15. and 32 H. 8. cap. 35. and 4. *Inst. 309.*

Drinkham, Is a Contribution of Tenants towards a Potatio, or Ale, provided to entertain the Lord or his Steward; perhaps the same with a *Scot-Ale*.

Droden, Among our Ancestors, the Saxons signified a Grove, or woody place, where Cattel were kept, and the Keeper of them was called *Drofsman*.

Drofsand or Dyfsland, Another Saxon word denoting anciently a yearly payment made by some to their Landlords, for driving their Cattel through the Mannor to Fairs and Markets. Mr. *Philips* mistakenly Recompence, fol. 39.

Droit Right, The Law makes six kinds of it; 1. *Jus recuperandi.* 2. *Jus intrandi.* 3. *Jus habendi.* 4. *Jus retinendi.* 5. *Jus percipiendi.* 6. *Jus possidendi.* All these several sorts following the relation of their Objects, are the effects of the Civil-Law, *Co. on Lit. fol. 266. & 345. Co. 8. Rep. fol. 151. 153.* Of meer *Droit*, and very *Right*. See 27 H. 8. cap. 26.

Droit d'Abbouson. See *Reito de advocacione Ecclesiae*

Droit Close. See *Reito clausum*.

Droit de Dower. See *Reito doris*.

Droit sur Disclaymer. See *Reito sur Disclaymer*.

Droit Patens. See *Reito Patens*, and *Calthorpe's Rep. fol. 132.*

Droffen,

Druft,

Dru,

Druften,

All according to the Book of *Doomsday*, signifie a Thicket of Wood in a Valley.

Duces tecum, Is a Writ commanding one to appear at a day in the Chancery, and to bring with him some Evidence, or other thing, that the Court would view. See the *New Book of Entries*, verbo *Duces tecum*. There is also another kind of *Duces tecum* directed to a Sheriff, upon return that he cannot bring his Prisoner without danger of Death, he being adeo *Languidus*, then the Court grants a *Habeas corpus* in the nature of a *Duces tecum licet languidus*.

Duell, Duellum, By *Fleta*, is a Fight between two Persons, for the Tryal of the Truth, the proof of which seemed to be on the Conquerours side, *Stat. de finibus levatis*, 27 E. 1. This sort of Combat is still disused, though the Law be still in force. See 3. *par. Inst. fol. 221.* and see *Combat*.

Duke, Dux, In ancient times among the Romans signified *Ductorem exercitus*; such as lead their Armies, who if by their Prowess they obtained any famous Victory, they were by their Souldiers saluted *Imperatores*, as *Huteman de verb. Feudal. verb. Dux*, proverb out of *Livy*, *Tully*, and others: Since that they were called *Duces*, to whom the King committed the Government of

any Province, *Id.* In some Nations to this day the Sovereigns of the Country are called by this Name, as *Florence*, or the great *Duke of Tuscany*, *Duke of Millayne*. In *England*, *Duke* is the next Secular Dignity to the of *Prince Wales*. After the coming in of the *Conquerour*, there were none bore this Title till *Edward the Thirds* dayes, who made *Edward* his Son *Duke of Cornwall*. Since that, there have been several made, whose Titles have descended by Inheritance to their Posterity; they were created with Solemnity *per cincturam gladii, cappae, & circuli aurei in capite impositionem*. See *Camd. Brit. pag. 166. Zazium de feudis, pag. 4. num. 7. Cassan. de consuet. Burgund. pag. 6. 10.* And *Ferne's Glory of Generosity, 139.* At this day we have many of these created *Dukes in England*, whose Titles are very well known to every Body.

Dum fuit infra ætatem, Is a Writ which lies for him that before he came to his full Age, made a Feoffment of his Land in Fee, or for term of Life, or in Tail, to recover them again from him, to whom he conveyed them, *F. N. B. fol. 192.*

Dum non fuit compos mentis, Is a Writ that lyeth against the Alience or Lessee, for him that not being of sound Memory, did alien any Lands or Tenements in Fee-simple, Fee-tail, for term of Life, or for Years, *F. N. B. fol. 202.*

Dunum } A *Dwone*, In which termination
and } (a little, in some varied into *Don*)
Duna, } many Names of our Towns end,
as *Ashdown, Cleydon &c. Doomsd.*

Duplicat, Is used by *Crompton* for second Letters Patents granted by the Lord Chancellor in a Case wherein he had formerly done the same, and was therefore thought void, *Crompt. Jur. fol. 215.* Also any Copy or Transcript of a writing is called a *Duplicat*; the word is used *14 Car. 2. cap. 10.*

Durden, A thicket of Wood in a Valley.

Duresse, *Duritia*, Is in our Common-Law, a Plea used by way of Exception, by him that being cast in Prison at a mans Suit, or otherwise by Beating, or Threats hardly used, sealeth unto him a Bond during his Restraint; for the Law holdeth such specialty void, but rather supposeth it to be by Constraint, and *Duresse* pleaded shall avoid the Action. *Brow.* in his *Abridgment*, joyneth *Duresse* and *Manass* together, that is, *duritiam & manass*. See the *New Book of Entries, verbo Duresse.*

Dutchy Court, Is a Court wherein all Matters appertaining to the *Dutchy of Lancaster*, are decided by the Decree of the Chancellor of that Court. And the original of it was in the Reign of *Henry the Fourth*, who after the deposing of *Richard the Second*, coming to the Crown, and having the *Dutchy of Lancaster* by Descent, in the Right of his Mother, he was seised thereof as King, and not as Duke; so that all the Liberties, Franchises, and Jurisdictions of the said *Dutchy* pass from the King by the Great Seal, and not by Levy or Attornment; as the Possession of *Everwick*, and the Earldom of *March*, and such others did, which had descended to the King by other Ancestors than the Kings: But at last *Henry the Fourth* passed a Charter by Authority of Parlia-

ment, whereby the Possessions, Liberties, &c. of the said *Dutchy* were severed from the Crown; yet *Henry the Seventh* reduced it to his former Nature, as it was in *Henry the Fifth* dayes, *Crompt. Jur. fol. 136.* The Officers belonging to this Court, are, The Chancellor, Attorney, Receiver-General, Clerk of the Court, the Messenger: Besides these, there be certain Assitants of this Court, as one Attorney in the *Exchequer*, one Attorney of the *Dutchy* in the *Chancery*, four learned men in the Law, retained of Council with the King in the said Court. Of this Court *Gwin* in the Preface to his Readings, saith thus, The Court of the *Dutchy*, or County-Palatine of *Lancaster*, grew out of the Grant of King *Edward the Third*, who gave the *Dutchy* to his Son *John of Gaunt*, and endowed it with such Royal Right as the County-Palatine of *Chester* had. And for as much as it was afterwards extinct in the Person of *Henry the Fourth*, by reason of the Union of it with the Crown; he separated the *Dutchy* from the Crown, and settled it in the natural Person of himself and his Heirs. In which estate it continued during the Reigns of *H. 5.* and *H. 6.* that descended of him: But when *Edward the Fourth*, by recovery of the Crown, recontinued the Right of the House of *York*, he appropriated that *Dutchy* to the Crown again; and yet so, that he suffered the Court and Officers to remain as he found them: And in this manner it came together with the Crown to *Henry the Seventh*, who again separated it, and so left it to his Posterity, who still enjoy it.

Dykesreeve, An Officer that hath the over-sight of the Dykes and Drains in *Deeving-Fens*, &c. mentioned *17 & 18 Car. 2. cap. 11.*

E

E. *Non solum est litera sed prepositio etiam & per se & in compositione significans Anglice (out) as è foro out of Court; Ejicio to cast out, and the like.*

Calberman or **Calbozman**, *Aldermanus*, Among the Saxons was as much as *Earl* among the Danes, *Camd. Brit. pag. 107.* It is as much as an *Elder* or *Statesman*, call'd by the Romans Senator, who were rather Counsellors at large, than bestowed upon any particular Office, as *Comites* were, see *County*. And that signification we retain at this day almost in all our Cities and Boroughs, calling those *Aldermen* that are Associates to the chief Officer in the Common-Council of the Town, *24 H. 8. cap. 13.* Or sometime the chief Officer himself, as in *Stamford*.

Carl Comes, According to *Lambert* in his Explication of Saxon words, *verbo Paganus*, is Saxon, and he interpreteth it *Satrapam*. *Vestegan* in his Resstitution of decayed Intelligence, deriveth it from two Dutch words (*Ear*, that is, *Honor*,) and *Etzel*, that is, *Noble*: But whencesoever it is derived This Title in ancient time was given to those that were Associates to the King in his Counsels and Martial Actions; as *Comes* was to those that followed the Magistrates in *Rome*, and executed their Offices for them as their Deputies, and dyed
always

alwayes with the man. And the ancient manner of their Creation, was onely *per cincturam gladii comitatus*, without any formal Method of Creation. But the Conqueror, as saith Camden, gave this Dignity in Fee to his Nobles, annexing it to this or that County, and allotted them for their Maintenance a certain proportion of Money rising from the Princes Profits, for the Pleadings and Forfeitures of the Province. For example, He bringeth an ancient Record in these words, *Henricus 2. Rex Anglie his verbis Comitum creavit. Sciatis nos fecisse Hugonem Bigot Comitem de Norfolk, sc. de tertio denario de Norwic. & Norfolk, sicut aliquis comes Anglie liberius comitatum suum tenet*, which words (saith the same Author) an old Book of Battel Abby thus expoundeth, *Consuetudinaliter per totam Angliam mos antiquitus inoleverat. Comites provinciarum tertium denarium sibi obtinere, inde Comites disti.* Ferne, pag. 12. sayes, One Duke or Earl had divers Shires under his Government, and had Lieutenants under him in every particular Shire called a Sheriff, and this appears by divers of our ancient Statutes, as namely by the Sentence of Excommunication pronounced by the Bishops against the Infringers of Mag. Charta, and Charta de Foresta, Anno 38 H. 3. Roger Bigot is named Earl both of Norfolk and Suffolk, and 1 E. 3. Thomas Earl of Lancaster and Leicester, Humphry Bohun Earl of Hereford and Essex, Dyer, fol. 285. num. 39. At this day, as long since, the Kings of England make Earls by their Charters, but give them no Authority over the County, nor any part of the profit rising of it, but onely some Annual Stipend out of the Exchequer, rather for Honors sake, than any great Commodity; the solemnity of their Creation is set down at large in *Stowes Annals*, pag. 1121. Their place is next after a Marquess, and before a Viscount. See more on this Subject in *Spelman's Glossary*, verbo *Comites*, and in *Seldens Titles of Honor*, fol. 676. and see *Countee*.

Casement. *Aisiammentum*, Is a Service which one Neighbour hath of another by Charter or Prescription, without profit, as a way through his Ground, a Sink, or such like, *Ritchin.* fol. 105. which, in the Civil-Law, is called *Servitus prædii*, *Glanvil.* lib. 12. cap. 14.

Cberemurder. *Apertum murdrum*, Was one of those Crimes, which by Henry the First's Laws, cap. 13. *Emendari non possunt, hoc ex scelorum genere fuit nullo pretio expiabilem*, &c. *Spelm.*

Ecclesia, A Church or Place set apart, and consecrated to the Service of God. But *Fitzherbert*, will have it onely to intend a Parsonage, *Nat. Brev.* 32. When the question was, whether it was *Ecclesia sive capella*, &c? The Issue was, whether it had *Baptisterium & Sepulturam*; For if it had right to administer the Sacraments, and for *Sepulture*, it was in Law adjudged a Church, *Trin.* 20 E. 1. in *Banco Rot.* 117. 2. *Inst.* fol. 363.

Ecclesiastical persons. Are either *regular* or *secular*; *Regular* are such as lead a Monastick life, of this sort are Abbots, Priors, Monks, Fryers, &c. *Secular* are those whose ordinary Conversation is among those of the World, and profess to take upon them the Cure of Souls, and live not under any Rule of Religious Orders: Such are Bishops, Parish Priests, &c.

Eles-fares, alias **Celesbare**, 25 H. 8. Be the fry or brood of **Eles**.

Effractors, Is a Latine word, properly signifying *Breakers*; the Law termes them *Burglars*, that break open Houses to steal.

Egyptians. *Egyptiani*. We commonly call them *Gypsies*, and by our Statutes and the Laws of England, are a counterfeit kind of Rogues, that being English or Welsh People, accompany themselves together, disguising themselves in strange Habits, blacking their Faces and Bodies, and framing to themselves an unknown Language, wander up and down, and under pretence of telling Fortunes, curing Diseases, and such like, abuse the ignorant common People, by stealing all that is not too hot or too heavy for their carriage, Anno 1 & 2 Phil. & Mar. cap. 4. and 5. *Eliz.* cap. 20. These are very like those whom the Italians call *Cingari*, spoken of by *Franciscus Leo in suo thesauro fori Ecclesiastici*, part. prim. cap. 13.

Ejectione custodie, *Ejectment de gard*, Is a Writ which lyeth properly against him that casteth out the Guardian from any Land during the minority of the Heir, *Reg. Orig.* fol. 162. F. N. B. fol. 139. *Termes de la Ley*, verbo *Gard*. There be two other Writs not unlike this, the one is termed *Droit de gard*, or *Right of Ward*; the other *Ravishment de gard*, which see in their places.

Ejectione firmæ, Is a Writ which lyeth for the Lessee for term of years, that is cast out before his term expired, either by the Lessor or a Stranger, *Reg. Orig.* fol. 227. F. N. B. fol. 220. See *Quar: ejecit infra terminum*, and the *New Book of Entries*, verbo *Ejectione firmæ*.

Eigne French, *Aisne*, *Maximus natu*, The first born as *Bastard Eigne*, and *Mulier puisne*, *Lit. sect.* 399. See *Muller*.

Einectia, Is borrowed of the French *Aisne*, *Primogenitus*, And signifies in the Common-Law *Eldership*, *Stat. of Ireland*, 14 H. 3. *Skene de verbor. Significatione*, verbo *Einectia*, sayes, That in the Statute of *Marbridge*, cap. 9. made in the time of H. 3. It is called *Einectia pars hereditatis*: And likewise in another place of the same King, *Jus einectia*, that is, in proper Latine, *Jus primogenituræ*. See *Einectia pars*, and *Einectia*.

Eyre alias **Eire**, From the old French word *Eire* that is, *Iter*, a Journey, as a *grand Eyre*, that is, *Magnis itineribus*. It signifies in *Britton*, cap. 2. the Court of Justices *Itinerant*. And Justices in *Eyre* are those onely which *Bracton* in many places calleth *Justiciarios itinerantes*, of the *Eyre*, and *Lib.* 3. *tract.* 2. cap. 1. 2. saith, The *Eyre* also of the Forest is nothing but the Justice-seat otherwise called, which is or should by ancient Custome be held every three year by the Justices of the Forest, journeying up and down to that purpose, *Crompt. Jur.* fol. 156. *Manswood's Forest Laws*, cap. 24. Read also *Skene de verb. Signif. verbo Iter*, whereby as by many other places, you may see great Affinity between these two Kingdoms in the administration of Justice and Government. See *Justice in Eyre*.

Election, Is, when a man is left to his own free Will to take or do one thing or another, which he pleases; As if A. covenants to pay B. a pound of Pepper or Saffron before *Whitsontide*; it is at the election of A. at all times before *Whitsontide*, which of them he will pay; but if he payes it not before the said Feast, then afterwards it is at the

Electio of B. to have Action for which he pleases, *Dyer*, fol. 18. pl. 104. 21 H. 7. 19. Co. lib. 5. fol. 59. and lib. 11. fol. 51.

Election de Clerk, Elections Clerici, Is a Writ that lyeth for the choice of a Clerk assigned to take and make Bonds called *Statute-Merchant*, and is granted out of the Chancery, upon suggestion made, that the Clerk formerly assigned is gone to dwell in another place, or hath hindrance to let him from following that business, or hath not land sufficient to answer his Transgression, if he should deal amiss, &c. F. N. B. fol. 164.

Elegit, (So called from the words in it, *Elegit sibi Liberari*) Is a Writ Judicial, and lyeth for him that hath recovered Debt or Damages in the Kings Court against one not able in his Goods to satisfy, and directed to the Sheriff, commanding him that he make delivery of half the Parties Lands or Tenements, and all his Goods, Oxen and Beasts for the Plough excepted, *Old Nat. Brev. fol. 152. Reg. Orig. 299. & 301.* And the Table of the Register Judicial, which expresseth divers uses of this Writ: In the *New Termes of the Law* it is said, That this Writ should be sued within the year. The Creditor shall hold the moyety of the said Land so delivered unto him, till his whole Debt and Damages are satisfied, and during that term he is Tenant by *Elegit*, *Westm. 2. cap. 18.* See Co. on Lit. fol. 289. b.

Elke, A kind of Ewe to make Bows of 32 H. 8. cap. 9.

Eloyne, In French *Esloigner*, To remove or send away. So the word is used 13 E. 1. cap. 15. If such as be within age be *eloined*, so that they cannot sue personally, their next Friends shall be admitted to sue for them.

Elopement, Is when a married Woman departs from her Husband, and dwells with an Adulterer, for which, without voluntary reconciliation to the Husband, she shall lose her Dower by the Statute of *Westm. 2. cap. 34.* according to these old Verses.

*Sponte virum Mulier fugiens Adultera facta
Dote sua careat, nisi sponso sponte retracta.*

Nor shall the Husband in such case be compelled to allow her any Alimony.

Emblements, Be the profits of Land which have been sowed; but the word is sometimes taken more largely for any Profits that arise and grow naturally from the Ground, as Grass, Fruit, Hemp, Flax, &c. If Tenant for life sow the Land, & afterwards dye, the Executor of the Tenant for life shall have the *Emblements*, and not he in Reversion: But if Tenant for years sow the Lands, and before he hath reaped, his term expires, there the Lessor, or he in Reversion, shall have the *Emblements*. See Co. lib. 11. fol. 51. and although it is commonly held, that if a man leases Lands at will, and after the Lessee sows the Land, and then the will is determined, that the Lessee shall have the *Emblements*; yet if the Lessee himself determines the Will before the severance of the Corn, he shall not have the *Emblements*. See Co. lib. 5. fol. 116.

Embryaeon or **Embryour**, 19 H. 7. 13. Is he that when a matter is in Tryal between Par-

ty and Party comes to the Bar with one of the Parties (having received some Reward so to do) and speaks in the Case, or privily labors the Jury, or stands there to surveigh or over-look them, thereby to put them in fear and doubt of the matter; the Penalty whereof is 20 l. and imprisonment at the Justices discretion by the afore-cited Statute. But persons learned in the Law may speak in the Case for their Clients.

Embassy, Is the offence of an *Embassy*, to pre-instruct the Jury, &c. is *Embassy*, Noy's Rep. fol. 102.

Embr or **embring** dayes, 2 & 3 E. 6. cap. 19. Are those by the ancient Fathers called *Quatuor Tempora*, and of great Antiquity in the Church, being observed on the Wednesday, Friday, and Saturday next after *Quadragesima Sunday*, *Whitsunday*, *Holy rood-day* in September, and *St. Lucys-day* in December. They are mentioned by Britton, cap. 53. and others. Co. in his 1st part 3. fol. 200. saith, These *embring days* are the week next before *Quadragesima*; which must needs be a great mistake in the Printer, for it is not possible that learned man could be ignorant in a thing so well known.

Emendals, *Emenda*, Is an old word still used in the Accounts of the *Inner-Temple*, where so much in *Emendals* at the Foot of an Account, signifies so much in bank in the stock of the House for the supply of all emergent Occasions: *Spelman* sayes it is that, *Quod tribuitur in restaurationem damni*.

Empanel, *Impanellare* vel *Ponere in Assis* & *Juratis*, Cometh of the French *Panne*, i. *Pelle*, or of *Paneum*, which denotes as much as a *Pane* with us, as a pane of Glas, or of a Window: In Law it signifieth the writing and entering the Names of a Jury into a Parchment Schedule, or Roll of Paper, by the Sheriff, which he hath summoned to appear for the performance of such publick Service as Juries are employed in. See *Panel*.

Emparlaunce, *Licentia interloquendi*, Cometh of the French *Parler*, to talk, and in the Common-Law signifieth a Desire or Petition in Court, of a day to pause what is best to do: The Civilians call it *Petitionem induciarum*. And *Kitch. fol. 200.* interpreteth it in these words, If he *imparl*, or pray continuance; when praying continuance is spoken *interpretative*. And fol. 201. he mentions *emparlance general*, and *emparlance special*; *Emparlance general* seemeth to be that which is made onely in one word, and in general termes. *Emparlance special*, where the Party requires a day to deliberate, adding also these words, *Salvis omnibus advantagiis tam ad jurisdictionem Curiae quam ad breve & narrationem*—or such like. Britton, cap. 53. useth it for the Conference of a Jury upon the cause committed to them. And an *Emparlance* or *Continuance* is thus entred, *Et modo ad hunc diem, scilicet diem veneris, &c. isto eodem Terminis usq; ad quem diem praedictus A. habuit licentiam interloquendi, &c.* See *Emparlance*.

Emprovement. See *Improvement*.

Encheison, Is a French word much used in our Law Books, as in that Statute 50 E. 3. cap. 3. and it signifies as much as the Occasion, Cause or Reason for which any thing is done. So it is used by *Stamf. lib. 1. cap. 12.* in his Description of a *Deodand*. *Skene de verbor. Signif. verbo Encheison*.

for, sayes, That *Edward*, the first King of England, *Westm.* 1. cap. 6. *Statutis & Ordinibus*, That no man shall be an Merchante, with an reasonable *Enchefon*.

Encroachment or Accroachment, Cometh from the French word *Accrocher*, to pull or draw to, and it signifies an unlawful gaining upon the Rights or Possessions of another: For example, If two mens Grounds lying together, the one presseth too far upon the other; or if a Tenant owe two shillings Rent service to the Lord, and the Lord taketh three. See *Co. 9. Rep. fol. 33. Bucknall's Case*. So it is said, That *Hugh Spencer* the Father, and *Hugh Spencer* the Son encroached unto them Royal Power and Authority, *Anno 1 E. 3. in poem*.

Enditement or Inditement, *Indictamentum*, Cometh of the French *Enditer*, *indicare*; or according to Mr. *Lambert*, from the Greek *ἐνδίκηναι*, *Eirenar*. *lib. 4. cap. 5. pag. 468*. It signifies in our Common-Law as much as *Accusatio* in the Civil-Law, though in some points it differ, *West. part. 2. Symb. tit. Inditements*, defineth it thus, An *Inditement* is a Bill or Declaration made in form of Law (for the benefit of the Common-wealth) exhibited as an Accusation of one for some Offence, either criminal or penal unto Jurors, and by their Verdict found and presented to be true, before an Officer having power to punish the same Offence. It seems to be an Accusation, because the Jury that enquireth of the Offence, doth not receive it, until the Party that offereth the Bill appeasing, subscribe his Name, and proffer his Oath for the truth of it. It is always at the Suit of the King, and differs from an Accusation in this, that the *Profferrer* is no way tyed to the Proof thereof upon any Penalty, if it be not proved, except there appear Conspiracy. See *Smith de Rep. Angl. lib. 2. cap. 19. Stamf. pl. cor. lib. 2. cap. 23, 24. & sic usq; ad 34*. *Enditments* of Treason ought to be very exactly and certainly penned, *Co. 7. Rep. Calvin's Case*; and they must contain the day, year and place. See *37 H. 8. cap. 8. and 3. par. Inst. fol. 134*.

Endowment, *Dotatio*, Signifieth the giving or affuming of Dower to a Woman; for which see more in *Dower*: But it is sometimes by a Metaphor used for the setting or severing of a sufficient portion for a Vicar towards his perpetual Maintenance, when the Benefice is appropriated, and so it is used in the Statutes, *15 R. 2. cap. 6. and 4 H. 4. cap. 12*. See *Appropriation*.

Endowment de la plus belle part, Is where a man dying seised of some Lands holden in Knights-service, and other some in Socage, the Widow is sped of her Dower rather in the Socage-Lands, than those holden in Knights-service, as being *le plus belle part*, the fairer part, of which read *Littleton* at large, *Lib. 1. cap. 5*.

Enfranchise, Is to make Free, to incorporate a man into a Society or Body-Politick, or to make one a free *Denizen*.

Enfranchisement, Cometh of the French word *Franchise*, *libertas*, and signifies the incorporating of a man into any Society, or Body-Politick: For example, He that by Charter is made *Denizen* of England, is said to be *enfranchised*; and so is he that is made a Citizen of London, or other City, or Burges of any Town Cor-

porate, because he is made partaker of those Liberties that appertain to the Corporation, whereinto he is *enfranchised*: So a Villain is *enfranchised*, when he is made free by his Lord, and made capable of the benefits belonging to free men. And when a man is thus *enfranchised* into a City or Borough, he hath a Free-hold in his Freedom for his Life; wherefore, whatever shall be the cause of his *disfranchisement*, ought to be a Fact, and not only an endeavoring or enterprising; what shall be sufficient cause to *disfranchise* a Free-man, and what not. See in *Co. 11. Rep. fol. 98. Bagg's Case*.

Englecery, Englebery, Engleschire or Englesherp, In Latine *Englecceria*, Is an old word, signifying nothing more than to be an English man. For example, If a man were privily slain or murder'd, he was in old time accounted *Francigena*, which word comprehended every Alien, until *Englecery* were proved, that is, until it was made manifest that he was an English man, *Bract. lib. 3. tract. 2. cap. 15. fol. 134*. The original whereof was this, *Canutus* the Dane being King of England, having settled his Estate in Peace, at the Request of his Lords, discharged the Land of his Armies, upon condition, That whoever should kill an Alien, should be liable to Justice, and if the Man slayer escaped, the Town where the Man was slain should forfeit 66 Marks to the King, and if the Town was not able, then the Hundred should pay: And further, that every Man murdered should be accounted *Francigena*, except *Englecery* were proved; the manner of which see *Bract. ibid. cap. 15. num. 7*. See also *Hornes Mirrour of Just. lib. 1. cap. Of the Office of Coroners*, and *Fleta, lib. 1. cap. 30*. This *Englecery*, for the Abuses and Troubles that were afterwards perceived to grow by it, was utterly taken away by *14 Ed. 3. cap. 4*. See *Co. lib. 7. fol. 16. Calvin's Case*.

Inheritance. See *Inheritance*.

Enitia pars. See *Finecia*.

Enquest, Latine *Inquisitio*, Is the same with the French word, and all one in signification: Howbeit it is especially taken for an Inquisition by Jurors, or a Jury, which is the most usual tryal of all Causes both Civil and Criminal within this Realm; for in Causes civil, after proof is made on either side, of so much as each Party thinketh good for himself; if the doubt be in the Fact, it is referred to the discretion of twelve indifferent Men, empannelled by the Sheriff for that purpose, and as they bring in their Verdict, so Judgment passeth; For the Judge saith, The Jury findeth the Fact thus, and the Law is thus; For the *Enquest* in Criminal Causes, see *Jury*, and *Smith de Rep. Angl. lib. 2. cap. 19*. An *Enquest* is either *ex Officio*, of Office, or at the misse of the Party, *Stamf. pl. cor. lib. 3. cap. 12*. This word is used in the Statutes of *25 E. 3. cap. 3, 28 E. 3. 13*. and almost in all Statutes that speak of Tryals by Jurors.

Entayle, *Feodum talliatum*, Cometh of the French *Entail*, i. *in scissus*, and in the Common-Law is used as a Substantive abstract, signifying *Fee-tail*, or *Fee-in-tail*: *Littleton* in the second Chapter of his Book draweth *Fee-tail* from the Verb *Talliare*, (an obsolete and superannuated word, I am sure, if any, whereas in truth it must come

from the French *Taille*, *Jeſura*, or *teiller*, *ſcindere*; and the reason is manifeſt, becauſe *Fee-tail* in the Law is nothing but *Fee* abridged, ſcanted or curtail'd, or limited or tyed to certain Conditions. *Taille* in France is metaphorically taken for a Tribute or Subſidy, *Luſanus de Magistratibus Francorum*, lib. 3. cap. *Talea*. See *Fee*, ſee *Tail*.

Entendment, Cometh of the French word *Entendement*, *intellectus*, *ingenium*. In a legal ſenſe it ſignifies as much as the true meaning or ſignification of a word or ſentence. See of this *Kitchin*, fol. 244. When a thing is in doubt, then ſometimes by *entendment* it ſhall be made out: As if an Inquiſition be found before a Coroner, that a man was murdered at *A*, which is a Liberty, and it is not ſaid in the Inquiſition at *A*, within the Liberty of *A*, yet it ſhall be good by *entendment*; for peradventure the Liberty may extend beyond the Town, *Co. lib. 5. fol. 121.*

Enterpleder, *Interplacitare*, Is compounded of two French words, *Entre*, that is *Inter*, and *Pleder*, that is *Diſputare*; and ſignifies in the Common Law as much as *Cognitio præjudicialis* in the Civil, that is, the diſcuſſing of a point incidently falling out before the principal Cauſe can take end: For example, Two ſeveral perſons being found Heirs to Land, by two ſeveral Offices in one County, the King is brought in doubt to which of them, Livery ought to be made, and therefore firſt they muſt *interplede*, that is, formally try between themſelves who is the right Heir, *Stamf. Prærog. cap. 12. & 19. Bro. tit. Enterpleder*, and *Co. lib. 7. fol. 45.*

Entiertry or Intiertry, A kind of French word ſignifying *Entirety*; it is contra-diſtinguiſhed in our Books from moyety, and denoting the whole.

Entire Tenancy, Is contrary to *ſeveral Tenancy*, ſignifying a ſole Poſſeſſion in one man, whereas the other ſignifieth Joynt or Common in more. See *Bro. ſeveral Tenancy*, and the *New Book of Entries*, verbo *Entire Tenancy*.

Entry, *Ingreſſus*, Cometh of the French *Entree*, and properly the taking poſſeſſion of Lands or Tenements. See *Plowd. Aſſe of freſh Force* in London, fol. 93. b. It is alſo uſed for a Writ of Poſſeſſion, for which ſee *Ingreſſus*, and alſo read *Weſt Symbol. part 2. tit. Recoveries*, ſect. 2, 3. who there ſhews for what thing it lies, and for what not. Of this *Britton* in his 114 Chap. writeth to this effect, the Writs of Entry favour much of the right of Property: As for example, Some be to recover Cuſtomes and Services in the which are contained theſe two words, *Solet & Debet*, as the Writs *Quo Jure*; *Rationabilibus diviſis*, *Rationabili eſtoverio*, and the like. And in this Plea of Entry there be three degrees, The firſt is, where a man demandeth Lands or Tenements of his own Seiſin, after the term is expired. The ſecond is where one demandeth Lands or Tenements, let by another after the term expired. The third, where one demandeth Lands or Tenements of that Tenant that had Entry by one, to whom ſome Anceſtor of the Plaintiff did let it for a term now expired, according to which degrees, the Writs for more fit remedy are varied. And there is yet a fourth form, which is without degrees, and in caſe of a more remote Seiſin, whereunto the other three degrees do not extend. The Writ

in the ſecond degree, is called a *Writ of Entry in le Per*, and a Writ in the third degrees is called a *Writ of Entry in the Per & Cui*, and the fourth form without theſe degrees is called a *Writ of Entry in le Poſt*, that is to ſay after the Diſſeiſin which ſuch a one made to ſuch a one; and if any Writ of Entry be conceived out of the right caſe, ſo that one form be brought for another, it is abateable. And in thoſe four degrees be comprehended all manner of Writs of Entry, which are without number or certainty. Thus ſar *Britton*, by whom you may perceive that thoſe words *Solet & Debet*, and alſo thoſe other words in *le Per*, in *le Per & Cui*; and in *le Poſt*, which we meet with many times in the Books ſhortly and obſcurely mentioned, do ſignifie nothing elſe but divers forms of this Writ, applied to the caſe whereupon it is brought, and each form taking his name from the words contained in the Writ, and of this read *Fitzb. Nat. Brev. fol. 193, 194.* This Writ of Entry differeth from an *Aſſiſe*, becauſe it lyeth for the moſt part againſt him who entred lawfully, but holdeth againſt Law, whereas an *Aſſiſe* lyeth againſt him that unlawfully diſſeiſed; yet ſometimes a Writ of Entry lyeth upon an intruſion, *Reg. Orig. fol. 233. b.* See the *New Book of Entries*, verbo *Entre brevis*, fol. 254 col. 3. I have read alſo of a Writ of Entry in the nature of an *Aſſiſe*. Of this VVrit in all his degrees, read *Fleta*, lib. 5. cap. 34. & ſequent. Alſo there are five things which put the Writ of Entry out of the degrees, viz. *Intruſion*, *Succession*, *Diſſeiſin* upon *Diſſeiſin*, *Judgment* and *Eſcheat*. 1. *Intruſion*, Is where the Diſſeiſor dies ſeiſed, and a ſtranger abates. 2. *Succession*, Is when the Diſſeiſor is a man of Religion, and dies, or is depoſed, and his Succellor enters. 3. *Diſſeiſin* upon *Diſſeiſin*, Is when the Diſſeiſor is diſſeiſed by another. 4. *Judgment*, Is when one recovers againſt the Diſſeiſor. 5. *Eſcheat*, Is when the Diſſeiſor dies without Heir, or doth Felony, whereby he is attaind, by which the Lord enters as in his *Eſcheat*. In all theſe Caſes the Diſſeiſee or his Heir ſhall not have a Writ of Entry within the degrees of the *Per*, but in the *Poſt*; becauſe in thoſe caſes they are not in by Deſcent, nor by Purchase.

Entry ad Communem Legem, Is a Writ which lies where Tenant for term of Life, Tenant for term of anothers Life, Tenant by the Curteſie, or Tenant in Dower, aliens and dies, he in the Reversion ſhall have this Writ againſt whomſoever is in.

Entry in caſu Probſo, Lies if Tenant in Dower alien in Fee, or for term of Life, or for anothers Life, living the Tenant in Dower, he in the Reversion ſhall have this Writ, which is provided by the Statute of *Glouc. cap. 7.*

Entry in caſu conſimili, Is a Writ that lies where Tenant for life, or Tenant by the curteſie aliens in Fee, he in the Reversion ſhall have this Writ by *Weſtm. 2. cap. 24.*

Entry ad terminum qui præterit, Lies where a man leaſes Land to another for term of years, and the Tenant holds over his term; the Leſſor ſhall have this Writ.

Entry fine aſſenſu Capituli, Lies where an Abbot, Prior, or ſuch as have Covent or Common-Seal, aliens Lands or Tenements of the right of his Church, without the aſſent of the

the Covent or Chapter, and dies, then the Successor shall have this Writ.

Entry causa Patrimonii p̄locuti, Lies where Lands or Tenements are given to a man, upon condition, that he shall take the Donor to his Wife within a certain time, and he does not espouse her within the limited time, or espouses another, or otherwise disables himself, that he cannot take her according to the said condition, then the Donor and her Heirs shall have the said Writ against him, or against whoever else is in the said Land.

Entrusion, Intrusio, Signifieth a Violent or unlawful entrance into Lands or Tenements, being utterly void of a Possessor, by him that hath no Right, nor spark of Right unto him, *Bract lib. 4. cap. 2.* For example, if a man step into any Lands, the Owner whereof lately died, and the right Heir neither by himself, or others, as yet hath taken Possession of them: The difference between an Intruder and an Abator is this, that an Abator entreth into Lands void by the death of a Tenant in Fee; and an Intruder enters into Lands void by the death of a Tenant for life or years, *F. N. B. fol. 203. and Co. on Lit. fol. 277.* yet the Book of Entries expresseth Abatement by the Latine word *Intrusionem*, fol. 63. c. which the *New Termes of Law* calls *Interpositionem aut introitionem per interpositionem*. See Abatement, see Disfeisin, see Britton, cap. 65. *Intrusio* is used also for the Writ brought against an Entruder, which see in *Fitzb. Nat. Brev. 203.* and Statute of Marl. cap. ult.

Entrusion de gard, Is a Writ that lies where the Infant within age entred into his Lands, and held his Lord out: for in this case the Lord shall not have the Writ de communi Causa, but this. *Old Nat. Brev. fol. 90.*

Envoyce. See Invoice.

Enure, Signifieth to take place or effect, to be available. As, a Release shall enure by way of extinguishment, *Littleton, cap. Release.* And a Release made to a Tenant for term of life, shall enure to him in the Reversion.

Eques Auratus, Is taken to signifie a Knight, and termed *Auratus*, because anciently none but Knights might beautifie and gild their Armor, or other Habiliments of War, *Fernes Glory of Generosity, pag. 102.* Yet in Law we never use *Eques Auratus*, but *Miles*, and sometimes *Chivalier*, *Co. 4. Inst. fol. 5.*

Equity, Equitas, Is of two sorts, and those of contrary effects; for the one doth abridge, and take from the letter of the Law, the other doth enlarge, and add thereto. The first is thus defined, *Equitas est correctio legis generatim lata, quæ parte deficit.* Equity is the Correction of the Law generally made in that part wherein it fails, which Correction is much used in our Law: As for example, when an Act of Parliament is made, that whosoever doth such a thing shall be a Felon, and suffer death; yet if a Mad-man, or an Infant that hath no discretion, do the same, that shall not be Felons, nor suffer death therefore. The other Equity is defined to be an extension of the words of the Law to Cases unexpressed, yet having the same reason; so that when one thing is enacted, all other things are enacted that are of the like

degree: As the Statute which ordains, that in an Action of Debt against Executors, he that doth appear by Distress shall answer, doth extend by equity to Administrators; for such of them as shall appear first by Distress, shall answer by equity of the said Act, *quia sunt in equali genere.*

Ertus alias Iris, Is the flower de Lys, whose divers kinds you may read in *Gerards Herb. lib. 1. cap. 34.* The root of this is mentioned among Merchandise, or Drugs to be garbled, *Anno 1 Jac. cap. 19.*

Ermine, Seemeth to come of the French word *Ermine*. It signifieth a Furre of great price.

Erminestreet. See Waringstreet.

Ertant, Itinerans, May be derived from the old word *Erra*, i. *Iter*: It is attributed to Justices that go the Circuit, *Stam. pl. cor. fol. 13.* and to Bayliffs at large. See Justices in Eyre and Bayliff. See also Eyre.

Error, Cometh of the French *Erreur*, and signifieth especially an Error in Pleading, or in the Process, *Bro. tit. Error.* And thereupon the Writ which is brought for remedy of this oversight, is called a Writ of Error, in Latine *Breve de Errore corrigendo*, thus defined by *Fitzb.* in his *Nat. Brev. fol. 20.* A Writ of Error is that properly which lyeth to redress false Judgment given in any Court of Record, as in the Common-Bench London, or other City having power by the Kings Charter or Prescription, to hold Plea of Debt above twenty shillings, or Trespass. See the *New Book of Entries, verbo Error.* This is borrowed from the French Practice, which they called *Proposition de erreur*, whereof you may read in *Gregorius de appellatione, pag. 36.* In what diversity of cases this Writ lyeth see the Register Original in the Table, *verb. Errore corrigendo*, and *Reg. Jud. fol. 34.* There is likewise a Writ of Error, to reverse a Fine, *West. Symbol. part 2. tit. Fines, 151.* For preventing abatements by Writs of Error upon Judgments in the Exchequer. See *16 Car. 2. cap. 2.* and *20 Car. 2. cap. 4.* And for redressing and prevention of Error in Fines and Recoveries, see the Stat. *23 Eliz. cap. 3.* for inrolling them.

Errore Corrigendo. See Error.

Escambio, Is a Licence granted to one, for the making over a Bill of Exchange to another over Sea, *Reg. orig. fol. 194.* For by the Statute of *5 R. 2. cap. 2.* No Merchant ought to exchange or return Money beyond Sea, without the Kings Licence.

Escape, Eſcapium, Cometh of the French *Eſchapper*, that is, *efugere*, to fly from, and signifies in the Law a violent or privy evasion out of some lawfull restraint. For example, If the Sheriff, upon a Copias directed to him, take one, and endeavour to carry him to the Goal, and he, in the way, either by violence, or by slight break from him, this is called an Escape, *Stam. pl. cor. fol. 70.* The same *Stamford* in his *Pleas of the Crown*, lib. 1. cap. 26. 27. nameth two kinds of Escape; the one voluntary, the other negligent: Voluntary is, when one arresteth another for Felony, or any other Crime, and afterward letteth him go whether he listeth. Negligent escape is, when one is arrested, and afterwards escapeth against his will

that arrested him, and is not pursued by fresh Suit, and taken again before the Party pursuing hath lost the sight of him, *Id. cap. 27.* Of the course of Punishment by the Civil-Law in this point, read in *Præfaticriminali Claudii de B. attaindier, reg. 143.* Read also *Crompt. Just. fol. 35. 36. 37.* and *Termes de la Ley.* There is likewise an escape of Beasts, and therefore he that by Charter is *Quietus de escape* in the Forest, is delivered of that punishment which, by order of the Forest, lyeth upon those whose Beasts be found within the Land forbidden, *Crompt. Jurisd. fol. 196.* See also *Co. 3. Reports, Ridgewayes Cafe, and ibid. Boytons Cafe, Plowd. Com. Platos Cafe.*

Exchange or Exchange, Escambium or *Excambium*, *Hanc terram cambiavit Hugo Briccuiuo quod modo tenet comes Moriton. & ipsum Scambium valet Duxlam, Doomsday, vide Exchange.*

Eschequer, Scaccarium, May be derived from the French word *Eschequier*, i. *abacus, tabula Lusoria*, and signifieth the Place or Court of all Receipts belonging to the Crown, *Polyd. Virg. lib. 9. Hist. Ang. saith, That the true word in Latine is Statarium*; but it may with more probability be taken from the German word *Schatz*, denoting as much as *Thesaurus* or *Fiscus*. Camden in his *Britannia*, pag. 113. saith, That this Court or Office took the Name from *tabula ad quam affidebant*, proving it out of *Gervasius Tilburienfis*, the Cloth which cover'd it being parti-colored or chequered. By the *Grand Cushman*, it is brought from the Normans, *cap. 56.* where you may find it thus described, The *Eschequer* is called an *Assembly of High Justicers*, to whom it appertaineth to amend that which the Bayliffs and other meaner Justiciars have evil done, and unadvisedly judged, and to do Right to all men without delay, as from the Princes mouth. *Skene de verbor. Signif. Scaccarium*, hath out of *Paulus Æmilius* these words, *Scaccarium dicitur quasi statarium, quod homines ibi in jure sistantur, vel quod sit stataria & perennis curia cum cetera curia essent indistinctæ nec loco nec tempore statæ.* Also he addeth further, that it might be called *Scaccarium à similitudine Ludi scaccorum*, from the resemblance it has to the Game at *Chesse*, many persons meeting and pleading their Causes there, as if they were fighting in an arrayed Battel. And *Smith* deduces it from an old Saxon word *Scata*, signifying Treasure, whereof Account is made in the *Chequer*. This Court consisteth, as it were, of two parts, whereof one dealeth especially in the judicial hearing and deciding of all Causes appertaining to the Princes Coßers, anciently called *Scaccarium computorum*, as *Ockham* testifies in his *Licubrationis*. The other is called *The Receipt of the Exchequer*, which is properly employed in the receiving and paying of Money, *Crompt. Jur. fol. 105.* sayes, It is a Court of Record, wherein all Causes touching the Revenues of the Crown are handled: The Officers belonging to both these, you may read in *Camdenus Brit. cap. Tribunalia Angliæ*, to whom I refer you. The Kings Exchequer now settled at *Westm.* was in divers Counties of Wales, *27 H. 8. cap. 5.* but especially *26. and 4. per. Inft. fol. 103.*

Eschete, Eschaeta, Cometh of the French *Escheoir, cadere, excidere*, and signifieth in a legal sense any Lands, or other Profits, that fall to a

Lord within his Mannor by way of Forfeiture or, the death of his Tenant, dying without Heir general or special, or leaving his Heir within age, and unmarried, *Mag. Charta. cap. 31. F. N. B. fol. 143. &c.* *Escheat* is also used sometimes for the Place or Circuit within which the King, or other Lord hath *Escheats* of his Tenants, *Brass. lib. 3. tract. 2. cap. 2. & Pupillo oculi, part 2. cap. 22.* Thirdly, *Escheat* is used for a Writ which lyeth, where the Tenant having Estate in Fee-simple in any Lands or Tenements holden of a superior Lord, dyeth seised without Heir general or special; for in this case the Lord bringeth this Writ against him that possesseth the Lands after the death of his Tenant, and shall thereby recover the same in lieu of his Services, *F. N. B. fol. 144.* Those that we call *Escheats*, are in the Kingdom of Naples called *Excendentia*, or *bona excendentia*, as *Baro locat excendentias eo modo quo locata fuerunt ab antiquo, ita quod in nullo debita servitia minuantur & non remittit gallinam debitam*, *Jacob de Franchiis in præludis ad feudorum usum, tit. 1. num. 23. & 29.* And in the same signification, that we say the Fee is *eschated*; the Feudists say, *Feudum aperitur*. See *Co. on Lit. fol. 92. b.*

Escheator, Escaetor, Derived from *Escheat*, is an Officer that taketh notice of the *Escheats* of the King in the County, whereof he is *Escheator*, and certifieth them into the Exchequer. This Officer is appointed by the Lord Treasurer, and continueth in his Office but a year; neither can any be an *Escheator* above once in three years, *Anno 1 H. 8. cap. 8. and 3 H. 8. cap. 2.* See more of this Officer and his Authority in *Cromptons Justice of Peace*, see *29 E. 1.* The form of his Oath, see in *Reg. Orig. fol. 301. b.* *Fitzherbert* calls him an Officer on Record, *Nat. Brev. fol. 100.* because that which he certifieth by vertue of his Office, hath the credit of a Record. *Officium Escaetoris*, is the *Escheatorship*, *Reg. Orig. fol. 259.* This Office having its chief dependance on the Court of Wards, is now in a manner out of date. See *4. Inft. fol. 225.*

Esuage, Scutagium, Cometh of the French *Escu, clypeus*, a Shield. In Law it signifieth a kind of Knights-service, called *Service of the Shield*, whereby the Tenant is bound to follow his Lord into the Scotch or Welsh Wars at his own charge; for which see *Chivalry*. But note, that *Esuage* is either uncertain or certain: *Esuage uncertain* is properly *Esuage* and Knights-service being subject to Homage, Fealty, and (formerly) Ward and Marriage; and so called, because it is uncertain how often a man shall be called to follow his Lord into those Wars, and what his charge will be in each Journey. *Esuage certain* is, when a certain Rent is paid yearly in lieu of all Services, being no further bound then to pay his Rent, call'd a *Knights Fee*, or the fourth part of a *Knights Fee*, according to his Land; and this loseth the nature of Knights-service, though it hold the name of *Esuage*, being in effect but Sockage, *F. N. B. fol. 8.* But see the Stat. *12 Car. 2. cap. 24.* for taking away the Court of Wards and Liveries, and turning all Tenures into Free an Common Sockage. See *Littleton, lib. 2. cap. 3.* and see *Capite*.

Esnevy, Esnevia, Is a Prerogative given to the eldest Coparcener, to chuse first after the

Inhe

Inheritance is divided, *Fleta*, lib. 5. cap. 10. *sect. in divisionem*. Salvo capitali Mesuagio primogenito filio pro dignitate *Æsnetiæ* sue, *Glanvil*, lib. 7. cap. 3. pro *Æsnetiæ*, jus Primogenituræ. *Skene de verb. Sig. Stat. Marl.* cap. 9. calls it *Enitia pars hereditatis*. See *Co. on Lit. fol.* 166. b.

Ekyppefon, An obsolete word, signifying Shipping, as appears by an Indenture dated the Second of Jan. 50 E. 3. between Thomas Beauchamp Earl of Warwick of the one part, and John Russell Esq; on the other part, wherein, among other things, it is said, *Et que le dit John avera Ekyppefon son covenable pour son passage & repassage entre mere, &c.*

Esplees, Expleia, perhaps from *Expleo*, Seem to be the full profits that the Ground or Land yieldeth; as the Hay of the Meadows, the Feed of the Pasture, the Corn of the Arable; the Rents, Service, and such like Issues. The Profits comprised under this word the Romans call properly *Accessiones*; nam *accessionem ea generaliter omnia, quæ ex re de qua agitur orta sunt, veluti fructus, partus & omnis causa rei & quæcumq; ex re procedunt*. And note, that in a writ of right of Land, Advowson, or such like, the Demandant ought to alledge in his Count, that he or Ancestors took the *Esplees* of the thing in demand, otherwise the pleading is not good, *Termes de la Ley*.

Esperbarius et Sparverius, French *Esperver*, A Hawk, *Charta Forest*, cap. 13. *Reddit. solut. W. Talboys Arm ad manerium suum de Keyne pro omnibus serviciis secularibus unum Esparverium, &c. Comput. David Gifferson collect. Reddit. de Wragby, Anno 35 Hen. 6.*

Esquier, Armiger, In French *Escuier*, i. *Scutiger*, was originally such a one attending a Knight in time of War; did carry his Shield; but this addition hath not of long time had any relation to that Office, but signifieth with us a Gentleman, or one that beareth Arms as a Testimony of his Nobility or Gentry, and is a meer Title of Dignity next to and below a Knight. They who by right claim this Title now, are all the younger Sons of Noble-men, the four *Esquires* of the Kings Body, the eldest Sons of all Barons, Knights of the Bath, and Knights Batchelors; Those that serve the King in any Worshipful Calling, such as are created *Esquires* by the King, with a Collar of SS of Silver; the chief of some ancient Families are likewise *Esquires* by Prescription, those that bear any superior Office in the Common-wealth, a Justice of Peace while he is in Commission, and Utter-Barristers. In *Walsingham's History of Richard the Second*, we read of one John Blake, who being *Jur in Apprenticius*, has the addition of *Scutifer* given him. *Comden in his Brit. fol.* 111. having spoken of Knights, hath these words of them, *His proximi fuere Armigeri qui & Scutiferi hominesq; ad arma dicti, qui vel a clypeis gentilitiis quæ in nobilitatis insignia gestant; vel qui principibus & majoribus illis nobilibus ab armis erant, nomen traxerant, &c.* The learned *Spelman* in his *Glossary* sayes, *A principe sunt Armigeri, vel scripto, vel symbolo, vel munere: Scripto, cum Rex sic quempiam constituerit. Symbolo, quum collum ergo alicujus argenteo signatice, (hoc est torque ex SS. confecto) adornaverit, eumve argentatis calcaribus donaverit. Tales in occidentali Angliæ plaga White spurs dicti sunt. Munere, cum*

ad munus quempiam evocaverit, vel in Aula, vel in Repub. &c. *Rotoman* in the Sixth Chapter of his *Disputations upon the Feods* saith, That those which the French call *Esquires*, were a military kind of Vassal, having *Fuscati*, that is, they bear a Shield, and in it the Ensignes of their Family, in token of their Gentility or Dignity.

Essendi quietum de Colonio, Is a Writ that lyeth for Citizens and Burgesies of any City or Town, that hath a Charter or Prescription to exempt them from Toll through the whole Realm, if it happen the same to be any where exacted of them, *F. N. B.* 226. *Reg. Orig. fol.* 258.

Essoine, Essonium, Cometh of the French *Essoine* or *Ezonnie*, i. *causarius miles*, he that hath his presence forborn, or excused upon any just Cause, as Sickness, or other Impediment. It signifieth in the Common-Law, the allegation of an excuse for him that is summoned, or sought for to appear, and answer to an Action real, or to perform Suit to a Court-Baron upon just cause of absence: It is as much as *excusatio* with the *Civilians*. The Causes that serve to *essoine* any man summoned are divers, yet drawn chiefly to five heads; whereof the first is, *ultra Mare*, whereby the Defendant shall have forty dayes. The second, *De terra Sancta*, where the Defendant shall have a year and a day, and these must be laid in the beginning of the Plea. The third, *De malo Veniendi*, which is also called *The common essoine*. The fourth is, *De malo lecti*. And the fifth, *De servitio Regis*. For further knowledge of these, I refer you to *Glanville*, in his whole First Book, and *Bracton*, lib. 5. *tract. 2. per totum*, and *Britton*, cap. 122, 123, 124, 125. and *Hornes Mirrour of Justices*, lib. 1. cap. de *Essoines*, who maketh mention of some more *Essoines* touching the Service of the King Celestial, and of some other points not unworthy to be known. Of these *Essoines* you may read further in *Fleta*, lib. 6. cap. 8. & *seq.* And that these came to us from the *Normans*, is well shewed by the *Grand Customary*, where you may in a manner find all said that our Lawyers have spoken of this matter, *Cap. 39, 40, 41, 42, 43, 44, 45.*

Essoines and Proffers Anno 32 H. 8. cap. 21. See *Proffer*.

Essoine de malo lecti, Is a Writ directed to the Sheriff, for the sending of four lawful Knights to view one that hath *essoined* himself *de malo lecti*, *Reg. orig. fol.* 8. b.

Establishment of Dower, Seemeth to be the assurance of Dower made to the Wife by the Husband, or his Friends, before or at Marriage; and Affigment is the setting it out by the Heir afterwards, according to the establishment, *Britton*, cap. 102. & 103.

Estandard or Standard, Cometh of the French *Estandart*, i. *signum, vexillum*. It signifies an Ensign in War as well with us as with them. But it is also used for the standing Measure of the King to the scantling, whereof all the Measures in the Land, are, or ought to be framed by the Clerk of the Market, Alneger, or other Officer, according to their Functions; for it was established by the Statute of *Magna Charta*, Anno 9 H. 3. cap. 9. That there should be put one scantling of Weights and Measures through the

whole Realm, which is since confirmed by 14 E. 3. cap. 12. and many other Statutes; (one especially made 17 Car. 1. cap. 29. which sayes, From henceforth there shall be one Weight, one Measure, and one Yard, according to the Standard of the Exchequer throughout all the Realm): It is notwithstanding great reason called a Standard, because it standeth constant and immoveable, and hath all Measures coming towards it for their Conformity: Even as Souldiers in the Field have their Standard or Colors, for their direction in their March or Skirmish to repair to. Of these Standards and Measures, read Britton, cap. 30.

Estate, May be deduced from the French word *Estat*, i. *Conditio*, and signifieth that Title or Interest which a man hath in Lands or Tenements; as *Estate simple*, otherwise called *Fee simple*; and *Estate conditional*, or upon Condition, which is as Littleton saith, Lib. 3. cap. 5. Either upon condition in Deed, or upon condition in Law: *Estate upon condition in Deed* is, where a man by Deed indentured infeofeth another in Fee, reserving to him and to his Heirs yearly a certain Rent payable at one Feast, or at divers, upon condition, that if the Rent be behind, &c. that it shall be lawful to the Feoffor, and to his Heirs, to enter into the Lands or Tenements, &c. *Estate upon condition in Law*, is such as hath a consideration in Law annexed to it, though not specified in writing: For example, If a Man grant to another by his Deed the Office of a Parkership for term of his life, this *Estate* is upon condition in the Law, or implied by Law, viz. if the Parker shall so long well and truly keep his Park. I read also of an *Estate particular*, which is an *Estate for Life*, or for term of Years, Perkins Surrenders 581.

Esterling. See *Sterting*.

Estoppel, From the French *Estouper*, *opilare*, *obscipare*, Denotes as much as an Impediment, or bar of an Action, growing from his own Fact that hath, or otherwise might have had his Action. For example, a Tenant maketh a Feoffment by Collusion to one, the Lord accepteth the Services of the Feoffee; by this he debaucheth himself of the Wardship of his Tenants Heir, F. N. B. fol. 142. Divers other Examples might be shewed out of him, and Boke: hoc titulo, Co. lib. 2. fol. 4. Goddards Case, deneth an *Estoppel* to be a Bar or Hinderance unto one to plead the truth, and restraineth it not to the Impediment given to a man by his own Act only, but by anothers also, Lib. 3. the Case of Fines, fol. 88. There are three kinds of *Estoppel*, viz. By matter of Record, by matter in Writing, and by matter in Pais; of which see Co. on Lit. fol. 352.

Estovers, *Estoverium*. Cometh of the French word *Estover*, i. *seuer*, and in the sense of the Law signifieth Nourishment or Maintenance. For example, *Bratton*, lib. 3. tract. 2. cap. 18. num. 2. useth it for that sustenance which a man taken for Felony, is to have out of his Lands or Goods for himself and his Family, during his Imprisonment. And the Statute made 6 E. 1. cap. 3. useth it for an allowance in Meat or Cloth. It is also used for certain allowances of wood, to be taken out of another mans Woods. So it is used *Westm.* 2. cap. 25. Anno 13 E. 1. *West. Symb.* part 2. tit. Fines, sect. 26. saith, That the Name

of *Estovers* containeth *Houfe-bote*, *Hay-bote*, and *Plough bote*; as if he have in his Grant these general words, *De rationabili Estoverio in boscis*, &c. he may thereby claim these three. In some Mannors the Tenants have Common of *Estovers* out of the Lords Woods, and pay a certain small Annual Rent for the same, *Rationabile Estoverium, vide antea Alimonia*.

Estrangers, Are sometimes taken for those that are not Privies or Parties to the levying of a Fine, or making of a Deed. Sometimes for those that are born beyond Sea.

Estray, *Extrahura*, From the old French *Estrayer*, *pererrare*, signifies any Beast not wild, found within any Lordship, and not owned by any man; for in this case, it being cryed, according to Law, in the Market-Towns adjoining, if it be not claimed by the Owner in a year and a day, it is the Lords of the Soyl. See Britton, cap. 17. *Vide etiam Estrayes in the Forest*, 27 H. 8. cap. 7. and *New Book of Entries*, verbo Trespass concernant Estray. The ancient Law of King Ina was, *Diximus de ignotis pecoribus, ut nemo habeat sine testimonio Hundredi, five hominum Decenne*, that is, the Suiters at a Court-Leet, *Spelm.*

Ectreat, *Extractum*, Is used for the true Copy, or Duplicate, of an original Writing. For example, Of Amerciaments or Penalties set down in the Rolls of a Court, to be levied by the Bailiff, or other Officer, of every man for his offence. See F. N. B. fol. 57. & 76. and so also it is used *Westm.* 2. cap. 8.

Clerk of the Ectreats, *Clericum extractorum*. See in Clerk.

Ectrepe, French *Ectropier*, i. *Mutilare*: To make Spoil by a Tenant for Life in Lands or Woods, to the prejudice of him in the Reversion.

Ectrepeement or **Ectrepeament**, *Ectrepeamentum*, from the French word *Ectropier*, *mutilare*: It signifies the spoil made by Tenant for life upon any Lands or Woods, to the prejudice of the Reversioner, as namely in the Statute made Anno 6 E. 1. cap. 13. and it may seem by the derivation, that *Ectrepeement* is properly the unmeasurable soaking or drawing out of the heart of the Land by plowing or sowing it continually, without manuring, or other such usage as is requisite in good Husbandry; and yet *ectropier* signifying *mutilare*, may not improperly be applied to those that cut down Trees, or lop them, farther than the Law will bear. This signifies also a writ, which lyeth in two manners; the one is, when a man having an Action depending, (as a *Formedon*, or *Dum suis infra etatem*, or *Writ of Right*, or any other) wherein the Demandant is not to recover Damages, sueth to inhibit the Tenant for making wast during the Suit. The other sort is for the Demandant, that is adjudged to recover Seisin of the Land in question, and before Execution sued by the writ *Habere facias seisinam*, for fear of wast to be made, before he can get possession, sueth out this writ. See more in F. N. B. fol. 60, 61. *Reg. Orig. fol.* 76. and *Reg. Jud. fol.* 33. In ancient Records we often find *Vastum & ectrepeamentum facere*; and *Spelman* thinks *Ectrepeamentum vasti genus designare*.

Ectate probanda, or rather **Etate probanda**, Is a Writ of Office, and lyeth for the

the Heir of the Tenant that held of the King in chief, to prove that he is of full age, directed to the Sheriff to enquire of his Age, and then he shall become Tenant to the King by the same Services that his Ancestors made to the King. But see the Statute 12 Car. 2. cap. 2. for abolishing the Court of Wards and Liveries, which hath in a manner utterly taken away this Writ.

Etheling or **Atheling**, Is a Saxon word signifying Nobles, and among the English-Saxon was as the Title of Prince among us, or as the Kings eldest Son; such was *Edgar Atheling* the designed Successor of *Edward the Confessor*.

Everwickshire, *Yorkshire*, Heretofore so called, haply derived from the Latine *Eboracum*, from which *Eborac*, and *Everic* or *Everwick* corruptly is no so strange variation; and the Saxon *Scyre*, which signifies *shire* or *share*.

Evil-droppers, Are such as stand under Walls or Windows by Night or by Day, to hear News, and to carry them to others, to make strife and debate among Neighbours: These are evil Members in the Common wealth, and therefore by the Stat. *Westm.* 1. cap. 33. are to be punished. And this Misdemeanor is presentable and punishable in the Court-Leet, *Kitchin*, fol. 11.

Evidence, *Evidentia* Signifies generally any Proof, be it Testimony of Men, Records or Writings. Sir *Tho. Smith* useth in both sorts *Lib. 2. cap. 17.* in these words, *Evidence* is authenticall writings of Contracts after the manner of England; that is to say, written, sealed and delivered: And *Lib. 2. cap. 23.* speaking of the Prisoner that standeth at the Bar to plead for his Life, and of those that charge him with Felony, He saith thus, Then he telleth what he can say; after him, likewise all those who were at the Prisoners Apprehensions, or who can make any proof, which we in our Language call *Evidence* against the Malefactor. It is called *Evidence* because it makes the Issue evident to the Jury; for *Probationes debent esse evidentes & perspicue*, *Co. on Lit.* fol. 283.

Exactors Regis, The Kings *Exactor*, sometimes taken for the Sheriff. And in this sense the *Black-Book* in the Exchequer, *Part. 1. cap. ult. Tabulas*, quibus *Vicomes censum Regium colligit Rotulum Exactorum vocat*, but generally *Quicumque publicas pecunias, tributa, vestigalia & res fisco debitas exigit, proprie nominantur Exactor Regis*.

Extortion, Is a wrong done by an Officer, or one pretending to have Authority, in taking a Reward or Fee for that which the Law allows not. The difference between *Exaction* and *Extortion* is this, *Extortion* is, where an Officer extorts more then his due. *Exaction* is, where he wrets a Fee or Reward, where none is due. See *Extortion*.

Examiners in Chancery, *Examinatores*, Are two Officers that examine upon Oath, Witnesses produced on either side, upon such Interrogatories as the Parties to any Suit do exhibit, to that purpose; and sometimes the Parties themselves are by particular order examined also by them. Heretofore there was such an *Examiner* in the *Star-Chamber*, but the Court being abolished, the Office and Officer is extinct.

Exambiator, Was anciently used for an

Exchanger of Land, [such I suppose as we now call *Brokers*, that deal upon the Exchange between Merchants.] In libro *cartarum Priorat. Leominst.* de anno 2 Ed. 2. It is said, *Ita quod unusquisque eorum qui damna sustinuit aliquo casu contingente, quod Exambiator refundat damna, &c.*

Exception, *Exceptio*, Is a stop or stay to an Action, being used in the Civil and Common-Law, both alike, and in both divided into *dilatory* and *peremptory*: Of these see *Bracton*, lib. 5. tract. 5. per totum, and *Britton*, cap. 91, 92.

Exchange, *Excambium vel Cambium*, Hath a peculiar signification in our Common Law, and is used for that Compensation which the Warrantor must make to the Warrantee, value for value, if the Land warranted be recovered from the Warrantee, *Bract.* lib. 2. cap. 16. & lib. 1. cap. 19. It signifieth also generally, as much as *Permutatio* with the Civilians, as the Kings *Exchange*, 1 H. 6. cap. 1. & 4. and 9 E. 3. Stat. 2. cap. 7. which is nothing else but the place appointed by the King for the exchange of Bullion, Gold, Silver or Plate, &c. with the Kings Coin. These places have been divers heretofore, as appeareth by the said Statutes: But now is there onely one, viz. The Tower of London conjoynted with the Mint, which in time past might not be; as appeareth by 1 H. 6. cap. 4.

Exchangeors, Are those that use to return Money beyond Sea, by Bills of *Exchange*, which by the Stat. 5. R. 2. cap. 2. ought not to be done without the Kings Licence. See *Excambio*.

Exchequer. See *Eschequer*.

Excheator. See *Escheator*.

Excise, Is a Charge or Imposition laid upon Beer, Ale, Syder and other Liquors, within the Kingdom of England, Wales, and Berwick, by Act of Parliament made 12 Car. 2. cap. 13. during the Kings life, and according to the Rates in the said Act mentioned. See 13 C. 2. cap. 13. and 15 Car. 2. cap. 3 and 17 Car. 2. cap. 4.

Excommengement, 23 H. 8. cap. 3. Is in Law-French; the same with *Excommunication* in English.

Excommunication, *Excommunicatio*, Is thus defined by *Panormitan*, *Excommunicatio est nihil aliud quam censura a Canone vel iudice Ecclesiastico prelata et inflicta privans legitima communione Sacramentorum & quodammodo hominum*. And it is divided in *Majorem* & *Minorem*; *Minor est*, per quam quis a Sacramentorum participatione conscientia vel sententia arcetur: *Minor est quae non solum a Sacramentorum, verum etiam fidelium communione excludit, et ab omni actu legitimo sepevit & divellit*. *Veneratorius de senten. excom.* The form of an *Excommunication* was of old thus, *Auctoritate Dei Patria Omnipotentis & Filii & Spiritus Sancti & Beate Dei Genetricis Mariæ, omniumque Sanctorum, Excommunicamus, Anathematizamus & a limitibus Sanctæ Mariæ Ecclesiæ sequestramus illos Malefactores N. consentaneos quoque, & participes & nisi resipuerint & ad satisfactionem venerint, sic extinguatur lucerna eorum ante viventem in sæcula seculorum, Fiat, Fiat, Amen. Ex emendat. Legum Will. Conquestor in lib. vocat, Textus Rossensis.*

Excommunicata capiendū, Is a Writ directed to the Sheriff for the apprehension of him who standeth th obdinateley excommunicated forty dayes.

dayes, for such a one not seeking Absolution, hath, or may have his Contempt certified into the Chancery, whence issueth this Writ, for the laying of him up without Bail or Mainprise, until he conform himself, *F. N. B. fol. 62. 5. Eliz. cap. 23. Reg. Orig. fol. 65, 67, 70.*

Excommunicato deliberando, Is a Writ to the Under-Sheriff, for the delivery of an excommunicate person out of Prison, upon Certificate of the Ordinary of his Conformity to the Jurisdiction Ecclesiastical, *F. N. B. fol. 63. and Reg. Orig. fol. 65. & 67.*

Excommunicato recipiendo, Is a writ whereby persons excommunicate, being, for their obstinacy, committed to Prison, and unlawfully delivered thence, before they have given Caution to obey the Authority of the Church, are commanded to be sought for, and laid up again, *Reg. Orig. fol. 67.*

Executione facienda, Is a Writ commanding execution of a Judgment; The divers uses whereof, see in the Table of the Register Judicial, verbo Executione facienda.

Executione facienda in wicernamium, Is a Writ that lies for the taking of his Cattel, that formerly hath conveyed out of the County the Cattel of another, so that the Bayliff having authority from the Sheriff to Replevy the Cattel so convey'd away, could not execute his Charge, *Reg. Orig. fol. 82.*

Execution, Executio, In the Common-Law signifies the last performance of an act, as of a Fine or a Judgment. And the execution of a Fine, is the obtaining possession actually of the things contained in the same by vertue thereof, which is either by Entry into the Lands, or by Writ; whereof see at large *West, part. 2. Symbol. tit. Fines, fol. 136, 137, 138.* Executing of Judgments and Statutes, and such like, see *F. N. B. in Indice 2. verbo Execution.* Co. in his 6. Rep. Blomfield's Case, fol. 87. maketh two sorts of Executions, one final, another with a quousq; tending to an end: An Execution final, is that which maketh Money of the Defendants Goods, or extendeth his Lands, and delivereth them to the Plaintiff, for this the Party accepteth in satisfaction, and this is the end of the Suit, and all that the Kings Writ commandeth to be done. The other sort with a quousq; is tending to an end, and not final; as in the Case of a *Capias ad satisfaciendum*, &c. This is not final, but the Body of the Party is to be taken, to the intent and purpose to satisfy the Demandant, and his imprisonment is not absolute, but until the Defendant do satisfy, *Idem. ibid.*

Executor, Executor, Is he that is appointed by any man in his last Will and Testament, to have the disposing of all his Substance, according to the Contents of the said Will. This Executor is either particular or universal; Particular, as if this or that thing only be committed to his Charge: *Universal*, if all. And this is in the place of him whom the Civilians call *Heredem designatum*, or *Testamentarium*; and the Law accounteth him one person with the Party whose Executor he is, as having all advantage of Action against all men that he had, so likewise being subject to every mans Action as himself was. This Executor had his beginning in the Civil-Law, by the Constitutions

of the Emperors, who first permitted those that thought good by their Wills, to bestow anything upon godly and charitable Uses, to appoint whom they pleased to see the same performed; and if they appointed none, then they ordained, That the Bishop of the place should have Authority of course to effect it, *Lib. 28. cap. de Episcopis et Clericis.* And hence probably grew the use of *Universal Executors*, and also brought the Administration of their Goods, that die intestate, unto the Bishop.

Executor de son tort, Or **Executor** of his own wrong, Is he that takes upon him the Office of an Executor by intrusion, not being so constituted by the Testator; nor for want thereof, appointed by the Ordinary to Administer. How far he shall be liable to Creditors, see 43 *Eliz. cap. 8. Dyer 166. and vide etiam libellum vocat. The Duty of Executors, cap. 14.*

Exemplification of Letters Patents, *Anno 13 Eliz. cap. 6.* Is a Copy or Duplicate of Letters Patent made from the Inrolment thereof, and sealed with the Great Seal of England, which Exemplifications are as effectual to be shewed or pleaded as the Originals themselves. *Nota*, nothing but matter of Record ought to be exemplified, 3. *Inst. fol. 173. See Co. 5. Rep. Pages Case.*

Exemplificatione, Is a writ granted for the exemplification of an Original. See *Reg. Orig. fol. 290.*

Exemption, Is a Privilege to be free from Service or Appearance, and therefore a Baron and Barones's dignitatis causa, are exempted to be sworn upon any Enquest, *Co. lib. 6. fol. 53.* Also Knights, Clerks, and Women are exempted to appear at the Sheriffs Turn, by the Statute of *Marlb. cap. 10.* And a man may be exempted from being put upon Enquests and Juries by the Kings Letters Patent, as the Colledge of Physicians, London, were by Letters Patent of *Hen. 8. Co. lib. 8. fol. 108.*

Et gravi Querela, Is a Writ that lyeth for him to whom any Lands or Tenements in Fee within a City, Town or Borough, being devisable, are devised by Will, and the Heir of the Devisor entreth into them, and detaineth them from him, *Reg. Orig. fol. 244. Old. Nat. Brev. fol. 87. See F. N. B. fol. 198.*

Exhibit, Exhibendum, When a Deed, Acquittance, or other writing is in a Chancery Suit exhibited to be proved by Witness, and the Examiner writes on the back that it was shewed to such a one at the time of his Examination; this is there called an Exhibit. The word is mentioned 14 *Car. 2. cap. 14.*

Exigendary of the Common Bench, *Exigendarius de Banco Communi*, Is otherwise called *Exigenter*, 10 *H. 6. cap. 4.* and is an Officer belonging to that Court, for which see *Exigenter*.

Exigent, Exigenda, Is a Writ that lyeth where the Defendant in an Action personal cannot be found, nor any thing within the County whereby he may be attached or distrained; and is directed to the Sheriff, to proclaim and call five County-dayes one after another, charging him to appear under the pain of Outlawry, *Termes*

de la Ley. This writ lyeth also in an Indictment of Felony, where the Party indicted cannot be found. *Smith de Rep. Ang. lib. 2. cap. 19.* It seemeth to be called an *Exigent*, because it exacteth the Party, that is, requireth his Appearance to answer the Law; for if he come not at the last dayes Proclamation, he is said to be *Quinquies exatus*, and then is Outlawed, *Crom. Jurisd. fol. 188.* And this *Manwood* also setteth down for the Law of the Forest, *cap. 18.* See the *New Book of Entries, verbo Exigent.*

Exigenter, Exigendarius, 18 H. 6. cap. 9. Is an Officer of the Court of Common-Pleas, of whom there be four in number: They make all *Exigents* and Proclamations in all Actions, where Process of Outlawry doth lie, and Writs of *Superfedeas*, as well as the *Protonotaries*, upon such *Exigents* as were made in their Offices. But the making Writs of *Superfedeas* is since taken from them by an Officer in the same Court, erected by King James by Letters Patent, towards the later end of his Reign.

Ex mero motu, Are words formally used in any Charter of the Prince, whereby he signifyeth, that he doth that which is contained in the Charter of his own will and motion, without Petition or Suggestion made by any other; and the effect of these words are to bar all Exceptions that might be taken unto the Instrument, wherein they be contained, by alledging, that the Prince in passing that Charter was abused by any false Suggestion, *Kitchin, fol. 152. Co. lib. 1. fol. 45.*

Ex Officio, By a Branch of a Stat. made 1 Eli. cap. 1. the Queen by her Letters Patent might authorize any persons, &c. to administer an Oath *Ex Officio*, whereby the supposed Offendor was forced to confess, accuse, or clear himself of any criminal Matter, &c. But this branch relating to the said Oath is repealed by the late Stat. 17 Car. 1. cap. 11.

Exoneracione scilicet, Is a Writ that lyeth for the Kings Ward, to be disburthened of old Suit, &c. to the County, Hundred, Leet, or Court-Baron, during the time of his Wardship, *F. N. B. fol. 158.*

Ex parte, Of the one part; In the Chancery it hath this signification, as a Commission *ex parte*, is that which is taken out and executed by one side onely; whereas a Joynnt-Commission is by consent, and joyning of both.

Ex parte talis, Is a Writ that lyeth for a Bayliff, or Receiver, that having Auditors assigned to hear his Account, cannot obtain of them reasonable allowance, but is cast into Prison by them, *F. N. B. fol. 129.* The manner in this case is to take this Writ out of the Chancery, directed to the Sheriff, to take the four Mainpernors, to bring his Body before the Barons of the Exchequer at a day certain, and to warn the Lord to appear at the same time, *Terms de la Ley, verbo Account.*

Exemptant, Is used in the Common-Law with this word *Fee*, and thus it is opposite to *Fee-simple*. For example, Lands are given to a man and his wife in *Frank marriage*, to Have and to Hold to them and their Heirs. In this case, they have *Fee-simple*. But if it be given to them, and the Heirs of their Body, &c. they have Tail and

Fee-exemptant, *Kitchin, fol. 153.* *Mathews de officio* useth the Adjective *Exemptant* substantively in the same signification, *Dein 292. num. 2. pag. 412.*

Explees. See Esplees.

Expeditate, Expedicare, Is a word usual in the Forest, to cut out the Balls of the great Dogs feet, for the preservation of the Kings Game: Every one that keepeth any great Dogs not expeditated, forfeiteth to the King three shillings four pence, *Crom. Jurisd. fol. 152.* *Manwood* useth the same word in his *Forest Laws*, *cap. 16. num. 6. 8.* setting down the manner of expeditating Dogs heretofore, saying, That the three Claws of the fore-foot on the right side, shall be cutoff by the skin; whereunto be also added out of the Ordinance called the *Assise of the Forest*, that the same manner of expeditating Dogs shall be still used and kept, and no other. *Quere*, how it happens that *Crompton* and he differ. The one saying, the ball of the foot must be cut out; the other, that the three fore-claws are to be cut off by the skin, *4. par. Inst. fol. 398.*

Expenditum, Anno 37 H. 8. cap. 11. Seems to signify those that pay, disburse, or expend the Tax in the Statute mentioned, by *Anno 7 Jac. cap. 2. Paymaster.*

Expensis militum levandis, Is directed to the Sheriff, for levying the allowance for Knights of the Parliament, *Reg. Orig. fol. 191.*

Expensis militum non levandis ad hominibus de antiquo Dominio, nec a Ratuia, Is a Writ to prohibit the Sheriff from levying any allowance for the Knights of the Shire, upon those that hold in ancient Domains, &c. *Reg. Orig. fol. 261.*

Explosores, A Scout, In *memoria Henrici Croft equitis aurati, Exploratoris in Hibernia Generalis, qui obijt Anno 1609* where *Explorator Generalis* signifies Scout-Master-General. Sometimes also it is used for a Hunt-man, as *Idem* has *habens exploratores suos* (his Hunt-men) *quod fecit tota, &c.* *Antiqu. Pickering, 8 Ed. 3. Rot. 4.*

Extendi, Extendere, In a legal sense denotes to value the Lands or Tenements of one bound by Statute, &c. that hath forfeited his Bond to such at an indifferent rate, as by the yearly Rent the Obligor may in time be paid his Debt. The course and circumstances hereof, see in *F. N. B. fol. 131. Brief de execution fac Statutu. Marchant.*

Extendi factas, Is a Writ ordinarily call'd *Writ of Extent*, whereby the value of Land, &c. is commanded to be made and levied in divers cases, which see in the Table of the *Register Original.* *Barthol. Hamel A. Antiqu. fol. 397.*

Extendi, Extensum, Hath two significations, sometimes signifying a Writ or Commission to the Sheriff, for the valuing of Lands or Tenements, *Reg. Judic. in tabula.* Sometime the act of the Sheriff, or other Commission upon this Writ, *Bro. tit. Extent, fol. 313. 16 & 17 Car. 2. cap. 5.*

Extinguishment, In our Law signifies an effect of Consolidation; for example, If a man have a *Writ of Right* yearly Rent out of any Lands, and afterwards purchase the same Lands, now both the Property and Rent are consolidated.

or united in one Possessor; and therefore the Rent is said to be *extinguished*. In like manner it is, where a man hath a Lease for years, and afterwards buyeth the Property; this is a Consolidation of the Property and the Fruits, and is an *extinguishment* of the Lease, see *Termes de la Ley*. So if a man have a High-Way appendant, and after purchase the Land wherein the High-way is; then the way is *extinct*, and so it is of Common-Appendant. But if a man have an Estate in Land but for Life or Years, and hath Fee-simple in the Rent; then the Rent is not *extinguished*, but in *succession* for the time; and after the term, the Rent shall be revived.

Excepatione, Is a Writ Judicial, that lyeth against him, who after a Verdict found against him for Land, &c. doth maliciously overthrow any House upon it, &c. and it is two-fold, one *ante Judicium*, the other *post Judicium*, Reg. Jud. fol. 13. 56. 58.

Extortion, *Extortio*, Is an unlawful or violent wringing of Money or Money worth from any man: For Example, If any Officer, by terrifying any the Kings Subjects in his Office, take more than his ordinary Duties or Fees, he committeth this offence, and is inditible for it. To this (saith Mr. West) may be referred the Exaction of unlawful Usury, winning by unlawful Games; and in one word, all taking of more than is due, by colour or pretence of Right, as excessive Toll in Millers, excessive prices of Ale, Bread, Victuals, Wares, &c. West Symbol part 2. tit. Indictments, fol. 65. Manwood saith, That Extortion is *colore Officii*, and not *virtute Officii*. Crumpton in his Justice of Peace, fol. 8. hath these words, Wrong done by any man is properly a Trespass, but excessive wrong by any man is called Extortion; and this is most properly in Officers, as Sheriffs, Mayors, Bayliffs, Escheators, and the like, that by colour of their Office do great Oppression, and excessive Wrong unto the People, in taking excessive Rewards or Fees, for the execution of their Offices. Great diversity of Cases touching Extortion, you may read in Crumpton's Justice of Peace, fol. 48, 49, 50. See the difference between *colore Officii* & *virtute vel ratione Officii*, Plow. fol. 64. *Black Case*. This word is used in the same signification in other Countries; for *Calumnians de Brachii Regio*, part 4. lib. 21. thus described it, *Ex extortio dicitur fieri, quando Index cogit aliquid fieri, cum quod non est iustum, vel quod est ultra debitum, vel ante tempus petiti id, quod post administrationem iustitiam debetur.*

Extorts or Extreats. See *Extreats*.

Cye. See *Eyre*.

Cy, *Insula*; An Island, *Dominus*.

Cyet, *Insuletta*, A small Island or Islet: It

is corruptly called by the Moderns vulgarly an

Islet.

F, Who ever maliciously shall strike any person

with a Weapon in the Church or Church-

yard, or draw any weapon there with intent to

strike, shall have one of his Ears cut off; and if

he have no Ears, shall be marked on the Cheek with a hot Iron, with the letter F. that he may be known for a Fighter, or maker of Frays, § 6 E. 6. cap. 4.

Fabrick-Lands, Are Lands given to the rebuilding, repair, or maintenance of Cathedrals, or other Churches, and mentioned in the Act of Oblivion, 12. Car. 2. cap. 8. In ancient time every one almost gave by his Will, more or less to the Fabrick of the Cathedral or Parish-Church where he lived. And these were called *Fabrick-Lands*, because given *ad Fabricam Ecclesie reparandam*. In Dei nomine Anten, &c. Die veneris ante festum Nativitatis sancti Johannis Baptiste, Anno Domini, 1423. Ego Richardus Smith de, &c. Item lego Fabricam Ecclesie Cathedralis Hereford xii d. Item lego Fabricam Capella beate Mariæ de Bromyard xl. d. These *Fabrick-Lands* by the Saxons were called *Timber-Lands*.

Faculty, *Facultas*, As it is restrained from the original and active signification, to a particular understanding in Law, is used for a Privilege, or special Power granted unto a man by favour, Indulgence and Dispensation, to do that which by the Common-Law he cannot do; as to eat Flesh upon days prohibited, to Marry without Banes first asked, to hold two or more Ecclesiastical Livings; the Son to succeed the Father in a Benefice, and such like. And for the granting of these, there is an especial Court under the Archbishop of Canterbury called *The Court of the Faculties*, and the chief Officer thereof the Master of the Faculties, *Magister ad Facultates*, whose power to grant as aforesaid, was given by 25 H. 8. cap. 21. See 28 H. 8. cap. 16. and 4. par. Inst. fol. 337. — Engl. Anno 4 E. 4. cap. 1.

Faynt alias Feyeit Action, Is as much as *signed Action*, viz. such an Action as though the words of the writ be true, yet for certain Causes he hath no Title to recover thereby, whereas in a false *Action* the words of the writ are false, yet in *Co.* upon Lit. fol. 144. & 361. they seem to be confounded as *Synonyma*.

Faynt pleaver, *Falsa placitatio*, Cometh of the French *Feynt*, a Participle of the Verb *feindre*, *feindre*, *ingere* and *pleadere*, *placitare*. It signifies a false, covenous, or collusory manner of pleading, to the deceit of a third Party, Anno 34 & 35 H. 8. cap. 24.

Faire alias Feye, (*Feria*) Cometh of the French *Feire*, and signifies as much as *Handlne* with the Civilians, that is, a solemn or greater sort of Market granted to any Town by Privilege; for the more speedy and commodious provision of such things as the Subject needeth, or the utterance of such things as we abound in above our own uses and occasions; both our English and the French word seemeth to come of *Feria*, because it is always incident to a Fair by privilege, that a man may not be molested or arrested in it for any other Debt, than what was first contracted in the same, or at least was promised to be paid there, 17 E. 4. cap. 2. and 1 R. 3. cap. 6.

Fayre pleading, See *Beau-pleader*.

Fayling of Record, *Fayler de Record*, Is, when an action is brought against one, who pleads any matter of Record, and avers to prove it by Record: And the Plaintiff saith, *Nul tiel Record*, whereupon the Defendant hath a day given him

him to bring it in, at which day he *sails*, or brings, in such a one as is no bar to this Action; this is said to be a *failer of Record*, Sec. *Termes de la Ley*, 346.

3. *Seal*, In *Latine Fidu*, A Deed, which is a writing sealed and delivered, to prove and testify the Agreement of the Parties, whose Deed it is, and consists of three principal Points, *Writing, Sealing and Delivery*. By *writing* is shewed the Parties name to the Deed, their dwelling-places, degrees, thing granted, upon what Consideration, the Estate limited, the time when granted, and whether simply, or upon condition, &c. 2. *Sealing* is a farther testimony of their consents, as appears by these words, *In witness, whereof, &c. In cujus rei testimonium, &c.* without which the Deed is insufficient. In the time of the Saxons our Ancestors they onely subscribed their Names, commonly adding the sign of the Cross, and in the end set down a great number of Witnesses, not using any kind of Seal, which fashion continued until the Norman Conquest; whose Custom by little and little prevailing, brought in the use of Seals. The first sealed Charter in England, is supposed to be that of *Edward the Confessor* to the Abbey of *Westminster*, which he being educated in *Normandy* brought thence: This change is mentioned by *Ingulphus*, who came in with the Conqueror, in these words, *Normanni Chirographorum confessionem (cum crucibus, aveis & aliis signaculis sacris in Anglia firmari solitam) in ceram impressam mutant, modumq; scribendi Anglicum rejiciunt*; but this Custom was at first used only by the Nobility, as appears in the History of *Batell Abbey*, where *Richard Lucy* chief Justice of England, in the time of *Henry the Second*, is reported to have blamed a mean person for using a Seal, which (he said) pertained only to the Nobility; yet in *Edward the Third* time Seals became very common, according to every mans fancy. 3. *Delivery*, though it be set last, is not the least; for after a Deed is written and sealed, if it be not delivered, it is to no purpose: And therefore in all Deeds, care must be taken that the Delivery be well proved.

Factious, Seemeth to be a French word antiquated, or something traduced; for the modern French word is *Faiseur*, that is, *factor*: It is used in the old repealed Statute, 7 R. 2. cap. 5. and in the evil part signifying a bad Doctor. It may not improperly be interpreted an idle Liver, taken from *Fayardise*, which signifies a kind of numbe or sleepy Disease, proceeding of too much sluggishness, which the Latines call *Veturnus*; for in the said Statute it seemeth to be a Synonymen with Vagabond.

Falda. A Sheep-fold, *Et quod oves sit le-
vantes & cubantes in propria falda, &c. Rot. Cart. 16
Hen. 3. m. 6.*

Falbage, Faldagium, Is a priviledge which anciently severall Lords reserved to themselves, of setting up Folds for Sheep in any Fields within their Mannors, the better to manure them; and this not only with their own, but their Tenants Sheep, which they called *Setta faldæ*. This *Faldage* in some places they call a *Fold-course* or *Free-fold*, and in some old Charters *Faldfoca*, that is, *Libertas faldæ* or *Faldagii*.

Faleſia or Falazia, A bank or hill by the

Sea-side, Co. on *Lit. fol.* 3. b. See *Doomsday Book*.

Falke-land alias Folke-land. See *Copy hold, and free-hold.*

Falsc Imprisonment, Falsum imprisonamentum. Is a Trespass committed against a man by imprisoning him without lawful cause: It is also used for the Writ which is brought upon this Trespass, *F. N. B. fol. 86. 88. Vide Booke, and the New Booke of Entries, verbo Falsc Imprisonment.*

Falso Judicio, Is a Writ that lyeth for false Judgment given in the County, Hundred, Court-Baron, or other Courts, being no Courts of Record, be the Plea real or personal, *Reg. Orig. fol. 15. R. N. B. fol. 17.* And the *New Book of Entries*, verbo False Judgement.

False Prophecies. See *Prophecies*.

Falso retorno brevium, Is a Writ lying against the Sheriff, for false returning of Writs, *Reg. Judic. fol. 43. b.*

False Claim, Is, where a man *claimes* more than his due: As the Prior of *Lancaster*, by reason of a Charter, had the tenth of all the *Venison*, viz. *In carne tantum sed non in corio*. And because he made a *False Claim*, and said, That he ought to have the tenth of all *Venison* within the Forest of *Lancaster*, as well in *Carne* as in *Coria*; therefore he was in *misericordia de decima venationis sue in Corio non percipiendo*, *Manwoods Forest Laws*, cap. 25. num. 3.

Falsify, Seemeth to signifie to prove a thing to be *false*, *Perkins, Damer* 383, 384, 485.

Familia, is sometimes taken by our Writers for a *Hide*, sometimes called a *Mans*, sometimes *Carucate*, or a *Plough land*, containing as much as one *Plough* and *Oxen* can till in one year. *Bede* in his *Ecclesiastical History*, lib. 4. cap. 3. hath these words, *Donavit terram quinquaginta Familiarum ad construendum Monasterium*: And *Cressy* in his *Church-History*, fol. 723. *Ubi Beda Familiam, Saxonice ejus interpres contaneus possum Hide redderet. Anglo-Normanni Carucata terre*, Gloss. in *Scriptor.*

fanaticks, Anno 13 CA. 2. cap. 6. Is used as a general Name for *Quakers, Anabaptists*, and all other *Sectaries* and *Factionous Dissenters* from the Church of *England*.

Faonaria or Feonatio, From the French
Faonner signifieth a bringing forth of Young,
 which in *Does* we properly call *Fawning*, *Carta Fo-*
restæ, cap. 8.

Farding or Farthing of Gold, Seemeth to be a Coyn used in ancient times, containing in value the Fourth part of a Noble, viz. twenty pence in Silver, and in weight the sixth part of an ounce of Gold; that is, of five shillings in Silver, This word is used 9 H. 5. Stat. 2 cap. 7. thus, *Item*, That the King do to be ordained good and just weight of the Noble, half Noble, and *farthing of Gold*, with the Rates necessary to the same for every City, &c. By which place it plainly appeareth to have been a Coyn, as well as the Noble and half Noble.

Farandman, According to the interpretation of *Skene de verbor.* Signif. isa Merchant-Stranger, to whom, by the Laws of Scotland,
E e Iusticia

Justice ought to be done with all expedition, that his Business or Journey be not hindred.

Fardel of Land, Is according to some Authors, the fourth part of a *Yard-Land*; yet *Noy* in his *Compleat Lawyer* pag. 57. will have two *fardels of Land* make a *Nook*, and four *Nooks* make a *Yard-Land*.

Farding-deal, alias **Farundel of Land**, *Quadrantata terra*, Signifieth the fourth part of an Acre, *Crompt. Jur. fol. 220. Quadrantata terra* is read in the *Reg. Orig. fol. 1 b.* where you have *Denariata & Obolata, Solidata & Librata terra*, which probably must arise in proportion of quantity, as an half-peny, penny, shilling, pound, rise in value or estimation; then must *Obolata* be half an Acre, *Denariata* an Acre, *Solidata* twelve Acres, and *Librata* twelve score Acres: And yet I find *Viginti libratas terræ vel redditus, Reg. Orig. fol. 94. and fol. 248.* whereby it seemeth, that *Librata terra* is so much as yieldeth twenty shillings per annum, and centum solidatas terrarum, tenementorum & reddituum, fol. 249. And in *F. N. B. fol. 87.* are these words, *Viginti libratas terræ vel redditus*, which argueth it to be so much Lands as twenty shillings per annum, see *Furlong*. Others hold *Obolata terra* to be but half a Perch, and *Denariata* a Perch. See *Spelm. Gloss. verbo Obolata terræ. Sciat, &c. me R. de J. dedisse Medietatem unius Feorwendel terræ, de meo Domino, &c. Mon. Ang. 2. par. fol. 913. b.*

Farr, Signifies a Voyage or Passage, or according as we now use it, Money paid for passing by Water, 2 & 3 P. & M. cap. 16.

Farlep or Farleu, In the Mannor of *West-flapton in Com. Devon*, if any Tenant die possessed of a Cottage, by custome he must pay six pence to the Lord for a *farlep*, which probably may be in lieu of a *Heriot*; for in some Mannors Westward, they difference *Farleu* as the best good, from *Heriot* the best Beast.

Farme or Ferme, Firma, Derived from the Saxon word *Feorman*, which signifies to feed, or yield Victual; for in ancient time the reservation was as well in Victuals as Money. It is usually the chief Messuage in a Village or Town, whereto belongs great demeans of all sorts, and hath been used to be let for term of Life, Years, at Will. The Rent reserved upon such a Lease, is called *Farm*, and the Tenant or Lessee *Farmor*. See *Ferme*, and *Spelm. Gloss. verbo Firma*.

Farthing of Land, Seems to be a great quantity, and differs much from *Farding-deal*; for in a Book Of Survey of the Mannor of *West-flapton in Com. Devon*, there is an Entry thus made, *A. B. holds six Farthings of Lands at 126 li. per annum.* See *Fardel* and *Farding-deal*.

Fate, Fat or Mate, Is a great wooden Vessel, which among Brewers and Maltsters is ordinarily used at this day to measure Malt by for expedition, containing eight Bushels, or a Quarter, mentioned 1 H. 5. cap. 10. 11 H. 6. cap. 8. It is also a leaden Pan or Vessel for the making of Salt at *Droitwich* in the County of *Worcester*, whereof the several Owners or Proprietors do claim Estates of Inheritance and Burges-ship. Also a great Brewing-Vessel used by all Brewers to run their Wort into.

Fautoys, 16 R. 2. cap. 5. Are Favorers, Supporters or Abettors.

Ffealty, Fidelitas, Cometh of the French *Feaulte*, that is *Fides*, and signifieth in our Common-Law an Oath, taken at the admittance of every Tenant to be true to the Lord, of whom he holdeth his Land: And he that holdeth Land by this onely Oath, holdeth in the freest manner that any man in England under the King may hold: Because all with us that have Fee-hold *per fidem & fiduciam*, that is, by *ffealty* at the least, *Smith de Repub. Ang. lib. 3. cap. 8.* For *fidelitas* is de substantia feudi, as *Duarenus* saith, de Feud. cap. 2. num. 4. And *Mattheus de assiciis deiciis*, 320. num. 4. pag. 465. saith, That *fidelitas est substantia feudi non servitium*: The particulars of his Oath, as it is used among the Feudists, you may read well exprest by *Zafius* in his *Traictate de feudis*, part. 7. num. 15, 16. which is worth the comparing with the usual Oath taken here in England. This *ffealty* is also used in other Nations, as the Lombards and Burgundians, *Cossanus de consuet. Burgund. pag. 419, 420.* And indeed the very creation of this Tenure, as it grew from the Love of the Lord towards his Followers, so did it bind the Tenant to Fidelity, as appeareth by the whole course of the Feods; and the breach thereof, is the loss of the Fee, *Duarenus in Commentariis feudorum*, cap. 14. num. 11. *Et Wesenbechius in tract. de feudorum*, cap. 15. num. 4. *Et sequen. Antonius Contius in methodo feudorum*, cap. quibus modis feudum amittitur. Hotoman in his Commentaries de verbis feudatibus, sheweth a double *ffealty*; one general, to be performed by every Subject to his Prince; the other special, required onely of such as in respect of their Fee are tyed by this Oath to their Landlords: We may read of both in the *Grand Custumary of Normandy*, being of course performed to the Duke by all resident within the Dutchy. This *ffealty* special is among us performed either by Freemen or Villiains. The form of both see in *Anno 14 E. 1. Stat. 2.* in these words, When a Freeman shall do *ffealty* to his Lord, he shall hold his right Hand upon a Book, and say thus, Hear you my Lord R, that I A. B. shall be to you faithful and true, and shall owe my *Fealty* to you, for the Land that I hold of you, and truly shall do you the Customs and Services that I ought to do to you at the termes assigned: So help me God, and all his Saints. And shall kiss the Book, but he shall not kneel. When a Villain shall do *Fealty* to his Lord, he shall hold his right Hand over the Book, and say thus, Hear you my Lord R, that I R. F. from this day forth unto you shall be true and faithful and shall owe you *Fealty* for the Land which I hold of you in Villenage, and shall be justified by you both in Body and Goods: So help me God, and all his Saints. See *Reg. Orig. fol. 302.* a *Fidelitas* (saith *Spelman*) est fidei, obsequii & servitii ligamen, quo generaliter subditus Regi, particularly, Vassallus domino astringitur.

Ffe, *Feudum vel feodum*, Cometh of the French word *Fief*, i. *predium beneficiarium vel res clientelaris*, and is used in our Common Law, to signifie divers things: As first, all those Lands which we hold by perpetual Right, as *Hotoman* well noteth *verbo Feodum, de verbis feudatibus*. Our ancient Lawyers have not exprest what they fully meant by it, onely say, that by this Name go all Land and Tenements that are held by any acknowledgment of superiority to a higher Lord. They that write of this Subject, divide all Lands & Tenements where a man hath a perpetual Estate

to him and his Heirs, &c. into *Allodium, & feudum*.

1. *Allodium*, They define to be every mans own Land, &c. which he possesseth meerly in his own Right, without acknowledgment of any Service, or payment of any Rent to another; and this is a property in the highest degree. 2. *Feudum*, Is that which we hold by the benefit of another, and in the Name whereof we owe Service, or pay Rent, or both, to a superior Lord: And all our Land here in England (the Crown Lands being in the Kings own Hands, in the Right of his Crown excepted) is in the Nature of *feudum* or *fee*; for though many have Land by descent from their Ancestors, & others have dearly purchased Land with their Money; yet is the Land of such a nature, that it cannot come to any either by descent or purchase, but with the burthen that was laid upon him, who had *Novel Fee*, or first of all received it as a benefit from his Lord to him and to all such to whom it might descend, or anyway be conveyed from him. So that in truth no man hath *directum Dominium*, the very property or demain in any Land, but only the Prince in the Right of his Crown, *Camb. Brit. pag. 93.* For though he that hath *fee*, hath *jus perpetuum & utile Dominium*; yet he oweth a duty for it, & therefore is it not simply his own; which thing, I take those words, that we use for the expressing of our deepest rights in any Lands or Tenements to import; For he that can say most of his Estate, sayes thus, *I am seised of this or that Land or Tenement in my Demain as of Fee, Seifitus inde in Dominio meo ut de feudo*, and that is as much as if he said, It is my Demain or proper Land after a sort, because it is to me and my Heirs for ever; yet not simply mine, because I hold it in the nature of a benefit from another. Yet the Statute of 37 H. 8 16. useth these words of Lands invested in the Crown; but it proceedeth from the not knowing the nature of this word *Fee*, for *fee* cannot be without Fealty sworn to a Superior, as you may read partly in the word *Fealty*, but more at large in those, that write *de feudis*, and in particular *Hotoman* both in his *Commentaries* and *Disputations*. And note, that Land, &c. with us is termed *Fee* in two respects, one as it belongeth to us and our Heirs for ever, the other as it holdeth of another. *Britton, cap. 32.* defineth it thus; *Fee* is a Right consisting in the person of the true Heir, or of some other that by just Title hath purchased it. *Fleta* saith, *Feudum est quod quis tenet ex quacumq; causa sibi & heredibus suis, sive sit tenementum sive redditus qui non proveniunt ex Camera & alio modo dicitur feudum, sicut eus qui seoffant & quod quis tenet ab alio sicut dicitur, talis tenet de tali tot feuda per servitium militare, Lib. 5. cap. 5. sect. feudum autem.* And all that write *de feudis*, hold, that *feudatarius* hath not an intire property in his *Fee*. The divisions of *fee* in divers respects are many, and worthy to be known; but we divide them onely into *Fee absolute*, otherwise termed *Fee simple*; and *Fee conditional*, otherwise called *Fee-tail*. *Fee-simple, feudum simplex* is that of which we are seised in these general words, To Us and Our Heirs for ever. *Fee-tail, feudum talitatum* is that whereof we are seised to Us and our Heirs, with limitation, that is, the Heirs of our Body, &c. And this *Fee-tail* is either *general* or *special*: *General* is, where Land is given to a man and the Heirs of his Body; the reason whereof is given by *Littleton, lib. 1. cap. 2.* because a man

seised of Land by such a Gift, if he marry one or more Wives, and have no Issue by them, and at length marry another by whom he hath Issue; this Issue shall inherit the Land. *Fee-tail special* is that, where a man and his wife be seised of Lands to them and the Heirs of their two Bodies. The reason is given likewise by *Littleton* in the same place, because in this case the wife dying without Issue, and he marrying another, by whom he hath Issue; this Issue cannot inherit the Land, being specially given to such Heirs, &c. This *Fee-tail* hath the Original from the Statute of *Westm. 2. cap. 1.* made 13 E. 1. Yet see *Bracton, lib. 2. cap. 5. num. 3. in his verbis, Item quaedam absoluta & larga, & quaedam stricta & coarctata sicut certis heredibus.* To whom add *Plowden, fol. 235. Willions Case*, for before that Statute, all Land given to a man and his Heirs, either *general* or *special*, was accounted in the nature of a *Fee*; and therefore held to be so firmly in him to whom it was given, that any limitation notwithstanding he might alien, and sell it at his pleasure, much like that which the *Civilians* call *Nudum precceptum*, binding rather by counsel and advice, than compulsion or restraint. But this seeming unreasonable to the wisdom of our Realm, that a man meaning well to this or that Posterity of himself, or his Friends, might be forthwith deceived of his Intention; the said Statute was made for redress of that inconvenience, whereby it is ordained, That if a man give Lands in *fee*, limiting the Heir, to whom it shall descend, with a Reversion to himself, or his Heirs, for default, &c. that the form and true meaning of his Gift shall be observed: He then that hath *fee*, holdeth of another by some duty or other, which is called *Service*; and of this *Service*, and the diversity thereof, see *Chivalry* and *Service*. Secondly, this word *Fee* is sometimes used with us for the compass or circuit of a Mannor or Lordship, *Bracton, lib. 2. cap. 5. In eadem villa & de eodem feodo*. Thirdly, It is used for a perpetual Right incorporeal, as to have the Keeping of Prisons in *fee*, *Old Nat. Brev. fol. 41. Foker in fee, Eod. fol. 6. Rent granted in fee, Eod. fol. 8. Sheriff in fee, 28 E. 1. Stat. 3. cap. 8.* Lastly, It is taken for a Reward or Wages given to one for the execution of his Office, as the *fee*, of a Forester, of a Keeper of a Park, or of a Sheriff for serving an Execution, limited by 20 Eliz. cap. 4. And also for that consideration given a Serjeant at Law or Counsellor, or a Physician, for their Counsel and Advice in their Profession, which, as it is well observed by Sir John Davis, in his Preface to his Reports, is not properly *Merces*, but *Honorarium*; yet in the Law Language it is called a *Fee*.

Fee expectant, Is by the *Feudists* termed *feudum expectativum*, or *expectativa* substantively used, *Matthæus de assis de cis 292. num. 2. pag. 417.* See *Expectant*.

Fee-farme, Feudi firma, Is a compound of *Fee*, and *ferme, pradium*, and signifieth in a legal sense Land held of another in *fee*, that is in perpetuity to himself and his Heir, for so much yearly Rent as it is reasonably worth, more or less, so it be the fourth part of the worth, *Old Tenures.* See *Exposition of the Statute of Gloucester, Anno 6 E. 1.* without Homage, Fealty or other Services, other than bespecially comprised in the

Feoffment; But by *Fitch*, in his *Nat. Brev.* fol. 210. it seemeth, that the third part of the value may be appointed for the Rent, or the finding of a Chaplain to sing Divine-Service, &c. And the nature of it is thus, that if the Rent be behind and unpaid for the space of two years, then the Feoffor, or his Heirs, have Action to recover the Lands as their Demefnes, *Britton*, cap. 66. num. 4. But observe, that *West* in his *Symbol*, part. 1. lib. 2. sect. 463. that the Feoffment may contain Services and suit of Court, as well as Rent. And in *Termes de la Ley*, that *Fee-farme*, oweth Fealty, though not exprest in the Feoffment, for that Fealty belongeth to all kind of Tenures; this is near the nature of that which, among the *Civilians*, is called *Ager Vefligalis*, qui in perpetuum licetur, i. hac lege, ut quomodo pro eo Vefligal pendatur, tam diu neq; ipsi qui conduzerunt, neq; iis qui in locum eorum fuccederunt auferri eum liceat.

Fedd alias **Fend**, *Feida* alias *foyda*, Signifieth in the German Tongue, *Guerram*, that is, *Capitales inimicitias*. *Hottoman* Disput. De feudis, cap. 2. *Lambert* in his Exposition of Saxon words, writs it *Feeth*, and saith likewise, That it denoteth *Capitales inimicitias*: And also that *Fend* now used in Scotland, and the North-parts of England, is the same, that is, a Combination of Kinred, to revenge the death of any of their Blood against the Killer, and all his Race. See *Skene de verbor. Signif. verbo* Affidatio.

Feto de fe, Is he that commits Felony by murdering of himself, *Cromptons Just. of Peace*, fol. 28. and *Lamb. Eirenarc.* lib. 2. cap. 7. pag. 243.

Felony, *Feloniam*, Seemeth to come of the French *Felonie*, (i.) *impetuositas*. *Feloniam*, saith *Hottoman*, de verbis feudalibus, non contumaciam vassalli in Dominum, huiusmodi in Vassallum perfidiam significat verum quodvis capitale facinus. And again, *Feloniam*, Gothib. & Longobardis dicitur quod Germanis hodie *Schelmarey*, Latinis *Scelus*. Sir *Edward Coke* saies, Ideo dicta est feloniam, quia fieri debet scilicet animo, lib. 4. fol. 124. *Hostenfis* in sua summa, tit. de Feudis. And others write of it thus, *Est culpa vel injuria propter quam Vassallus amittit feudum*, &c. But we account any Offence Felony, that is in degree next Petit Treason, and compriseth divers particulars, as Murder, Theft, killing of a mans Self, Sodomy, Rape, wilful burning of Houses, and such like; which are to be collected out of the Statutes, which have made many Offences Felony that before were not. Felony is differenced from lighter Offences in this, that the punishment thereof is death, yet not in all cases: For *Petit Larceny*, which is the stealing of any thing under the value of twelve pence, is felony, as appeareth by *Broke*, tit. Coron. num. 2. his reason is, because the Indictment against such a one must have these words, *Felonice Cepit*; and yet this is not punished by Death, though it be loss of Goods. Any other Exception I know not, but that a man may call that Felony, which is under *Petit Treason*, and punished by death. And of this may be reckoned two sorts, one lighter, that for the first time may have the benefit of the Clergy, another that may not. And these you must learn to know from the Statutes, for Clergy is allowed, where it is not expressely taken away. Of this read *Stampl. cor. lib. 1.* from the end of the second Chapter to the 39, and

the Statutes. See also *Lamberts Justice of Peace*, lib. 2. cap. 7. in a Table drawn for that purpose. And also *Lib. 4. cap. 4. pag. 404.* And *Cromptons Justice of Peace*, fol. 32. &c. Felony is also punished by loss of Lands not entailed, and Goods and Chattels as well real as personal; and yet by the 37 H. 8. cap. 6. a difference is made in some cases touching Land. This Offence ordinarily worketh corruption of Blood, unless expressly provided against by Statute, as 39 Eliz. cap. 17. How many wayes felony may be committed. See *Termes de la Ley*, pag. 357, 358. and *Sjelm. Glossary*.

Feme Covert, is a married Woman, who is also said to be under *Cover*: *Baron*, 27 Eliz. 3.

Fence-month, *Mensis vetitur*, Is a moneth wherein it is unlawful to hunt in the Forest, because in that time the Female Deer do fawn. It begins alwayes fifteen dayes before *Midsummer*, according the Charter of the Forest, viz. In initio quindecim dierum ante festum Sancti Johannis Baptiste, quando Agitatores nostri conveniunt pro feonatione bestiarum nastrarum; and it doth end fifteen dayes after *Midsummer*, which is upon St. Cyrils-day: And here observe, That every common moneth is but 28 dayes, but the *Fence-month* is 31 dayes, *Assisa Foresta de Pickering*, fol. 20. *Searjeant Fleetwood* in his Collection of the Forest Laws, fol. 5. saith, That the *Fence-month* hath alwayes been kept with Watch and Ward in every Bayliwick through the whole Forest since the time of *Canutus*. *Manswood's Forest Laws*, cap. 13. and 20 Car. 2. cap. 3. Some ancient Foresters do call this moneth, *The Defence-month*, because then the Deer are to be defended from scare or fear. There are also certain *Defence-months*, or seasons for Fish, as appears by *Westm. 2. cap. 47. 13 E. 1.* in these words, All Waters where *Salmons* be taken shall be in defence for taking of *Salmons* from the Nativity of our Lady unto St. Martins day, and likewise that young *Salmons* shall not be taken nor destroyed by Nets, &c. from the midst of April, to the Nativity of St. John Baptiste. See also 13 R. 2. Stat. 1. cap. 19.

Fengeld, A Tax or Imposition exacted for the repelling of Encmies, *M. S. Antig.*

Feodal, *Feodalis vel fundalis*, Or belonging to the Fee, *Fee-farme*, or Fee simple, *Anno 12 Car. 2. cap. 24.*

Fendary, *Feudary* or *Feudatary*, *Feudatarius*, Was an Officer in the Court of Wards, appointed by the Master of that Court, by virtue of the Statute. 32 H. 8. cap. 46. to be present with the *Escheator* in every County at the finding of Offices, and to give in Evidence for the King as well for the value as the tenure: His Office also was to survey the Lands of the Ward after the Office found, and to return the true value thereof into Court; to assign Dower unto the Kings Widows, to receive all the Rents of the Wards Lands within his Circuit, and to answer them to the Receiver of the Court. This Officer is mentioned 32 H. 8. cap. 46. and is wholly taken away by 12 Car. 2. cap. 24. And in some antient Writings it appears, that Noblemen had their particular *Feodaries*.

Froffment, *Feoffamentum*, By the Opinion of Sir *Tho. Smith de Repub. Anglor.* lib. 3. cap. 8. And *West. part. 1. Symb. lib. 2. sect. 280.* is descended

ded from the *Gabish* word *Feudum*, which we interpret *Fee*, and signifieth *donationem feudis*: But (as the same *Witt* addeth) it signifieth in our Common-Law any Gift or Grant of any Honors, Castles, Mannors, Messuages, Lands or other corporeal and immoveable things of like nature unto another in Fee-simple, that is, to him and his Heirs for ever, by the delivery of Seisin and the possession of the thing given, whether the Gift be made by Deed or Writing: And when it is in writing, it is called a *Deed of Feoffment*, and in every Feoffment the Giver is called the *Feoffor*, *Feoffator*, and he that receiveth by vertue of the same *Feoffee*, *Feoffee*. And *Littleton* saith, That the proper difference between a *Feoffor* and a *Donor* is, that the *Feoffor* giveth in Fee-simple, the *Donor* in Fee-tail, *Lib. 1. cap. 6.* It is the ancient and most necessary Conveyance, because solemn and publick; and also because it cleareth all *Disseins*, *Abatements*, *Intrusions*, and other defeasible Estates, where the Entry of the *Feoffor* is lawful, which neither *Fine*, *Recovery*, nor *Bargain and Sale* by Deed indented and enrolled doth, *Ephron* enscrolled *Abraham*, *Gen. 23.* See *Co. on Lit. lib. 1. cap. 1. sect. 1.*

Feoffor, and **Feoffee**, *Feoffor* is he that infeoffs, or makes a Feoffment to another of Lands or Tenements in Fee-simple. And *Feoffee*, is he that is infeoffed, or to whom the Feoffment is so made.

Ferdella terræ, Is ten Acres. See *Virgata* and *Fardel*.

Ferdindel. See *Farding-deal*.

Ferdfare, *Significat quietantiam eundi in exercitum.* *Fleta lib. 1. cap. 47.* that is, to be quit from going to War.

Ferdmit, *Significat quietantiam murdris in exercitu.* *Fleta lib. 1. cap. 47.* that is, to be quit of Murder committed in the Army, *Et sint quieti de Fildwite, Fildwite, & Ferdwite, & Heagwite, & Leirwite, &c.* *Charta, 11 H. 3. m. 33.*

Ferial-daves, *Dies feriales, ferie*, According to the proper Latine signification, signifies Holy days, or days vacant from Labor and Pleading; but in the Statute 27 H. 6. cap. 5. *Ferial-days* are taken for *Working-days*.

Ferling, *Ferlingus*, The fourth part of a penny, *Quadrans, Quando quarterium frumenti venditur pro 12 denar. tunc panis Wapelli de Ferlingis ponderabit 5. lib. & 16. sol. Ass. panis & cervisi. 51 H. 3. Camden in his Brit. tit. Huntingdon, dayes*, There were in this Borough four *Ferlings*, that is, quarters of Wards.

Ferlingata terræ, The fourth part of a Yard-Land, *Decem acra faciunt unam Furlingatam, 4. Furlingatæ virgata, 4. Virgate hidam, & 5. Hide. secundum militare, Esc. 12. Ed. 2. n. 18.* *Ebor.* In ancient Records is used both *Ferlingus* & *Ferlingus terræ*. See *Man. Ang. 2. par. fol. 8.*

Ferme or **Farme**, *Firma*, Cometh of the French *Ferme*, *prædium*, and signifieth with us House or Land, or both, taken either by Indenture of Lease, or Lease-parol. This in the North-parts is called a *Tukein* in *Lancashire* a *Farm-bolt*, in *Essex* a *Wike*. We may Conjecture, that both the French and English word came from the Latine *firmus*; for *firm* and *locare ad firmum*, to signify with others as much as to set or let to *Farme*

with us, the reason whereof, maybe in respect of the sure hold they have beyond Tenants at Will. *Vide Vocabul. utriusq. juris, verbo Affidius.* In the *Termes of the Law* it is derived from the Saxon *Feorman*, which signifieth to feed or yield Victual. For in ancient time the Reservations were as well in Victuals as Money: How many wayes *Farme* is taken, see *Plowden, fol. 195. Wrightes Case.*

Fermifona, The Winter-Season of Deer, as *Tempus pinguedinis* is the Summer-Season. See *Tempus pinguedinis*; Rex dilecto R. C. & c. *Com mittamus dilectum valedictum nostrum Johannem de F. ad instantem Fermifonam in parvis nostris ibidem, &c.* *Claus. 30 Ed. 1. m. 18.*

Ferrure, The shoeing of Horses.

Festingmen, *De illud Monasterium sit liberatum ab illis incommodis que nos Saxonica lingua Festingmen dicimus.* *Mon. Ang. 1. par. fol. 123. a.*

The Saxon *Festman*, signifies *Fidjofor*, a Pledge; so that to be free of *Festingmen*, in probability is to be free of *Frank-Pledge*, and not to be bound for any mans forth-coming, who should transgress the Law.

Feud. See *Fred*.

Feudal. See *Feodal*.

February. See *Feodary*.

Feud-bote, Is a recompence for engaging in a feud or faction, and the contingent Damages. It having been the custome of ancient times, for all the Kindred to engage in the Kinsmans Quarrel; according to that of *Tacitus*, *De moribus Germanorum*, *suscipere tam inimicitiam seu patris, seu propinqui, quam amicitias necesse est.*

Fidale, **Fidiale** and **Fidale**, *Bracton, lib. 3. fol. 117.* A composition or entertainment made for gain by Bayliffs to those of their Hundreds, or rather according to *Co. 4. Inst. fol. 307.* An extortion, *extorsio compositionis*, See *Scutale*.

Fieri facias, Is a Writ Judicial, that lyeth at all times within the year and day, for him that hath recovered in an Action of Debt or Damages, to the Sheriff, to Command him to levy the Debt or the Damages of his Goods against whom the Recovery was had, beginning thus *Writ. 2. cap. 18. Anno 13 E. 1.* See *Old Nat. Brw. fol. 152.* See also great diversity thereof in the Table of the *Register Judicial*, verbo *Fieri facias*. See also *Scire facias*, and Title *Execution*.

Fifteenth, *Decima quinta*, Is a Tribute or Imposition of Money laid upon a City, Borough, or other Town, through the Realm; not by the Pole, or upon this or that man, but in general upon the whole City or Town, and so called, because it amounteth to a fifteenth part of that which the City or Town hath been valued at of old; or to a fifteenth part of every Mans Goods and personal Estate, according to a reasonable valuation. This is now imposed by Parliament, and every Town through the Realm knoweth what a fifteenth for themselves doth amount to, because it is perpetually the same. Whereas the Subsidy, which is raised of every particular Mans Lands or Goods, must needs be uncertain, because the estate of every several man is uncertain. And in that regard, a fifteenth seems to be a Rate antiently laid upon every Town, according to the Land or Circuit belonging to it.

Whereof *Camden* in his *Brit.* makes frequent mention, particularly pag. 168. of Wells in *Somersetshire* thus, *Quo tempore ut testatur censuali Anglie liber, Episcopus ipsum oppidum tenuit, quod pro quinquaginta bidis geldavit.* And pag. 172. Of Bath, *Geldabat pro viginti bidis, quando scira geldabat.* Thirdly, pag. 181. *Old Sarum* or *Salisbury*, *pro quinquaginta bidis geldabat.* And these Rates were taken out of *Doomsday Book* in the *Exchequer*. So that in old time this seemed to be a yearly Tribute in certainty; whereas now, though the Rate be certain, yet it is not levied but by Parliament. See *Tax* and *Quintine*.

Fightwite, A Saxon word, signifying a Mult of 120 shillings, for making a Quarrel to the disturbance of the Peace. So that *Fightwite* is truly *forisfactura pugnæ*, *M. S. codex.*

Filacer, *Filazarius*, Possibly derived from the Latine *filum*, a Thread, Is an Officer in the *Common-Pleas* (so called) because he files those Writs whereon he makes Process: There are fourteen of them in their several Divisions and Counties, they make out all original Process, as well real as personal and mixt; and in Actions meerly personal, where the Defendants be returned or summoned, there goeth out the Distress infinite until Appearance; if he be returned *Nihil*, there Process of *Capias* infinite, if the Plaintiff will or after the third *Capias*, the Plaintiff may go to the *Exigent* of the Shire, where his Original is grounded, and have an *Exigent* or Proclamation made. Also the *Filacer* maketh all sorts of Writs of view, in Causes where the view is payed; and upon all *Replevins* or *Recordare's*, Writs of *returno habendo*. Second Deliverance, and *Witbernam*, They enter all Appearances and special Bayls, upon any Process made by them. They make the first *Scire facias* upon special Bayls; Writs of *Habeas Corpus*, *Distringas Nuper vice-comitem vel Ballivum & Duces tecum*, and all *Superfedeas* upon special Bail, or otherwise. Writs of *Habeas corpus cum causa* upon the Sheriff's Return, that the Defendant is detained with other Actions, Writs of adjournment of a Term, in case of Pestilence, War, or publick Disturbance, and (until an Order of that Court made 14 Jac. which limited the *Filacers* to all Matters and Proceedings before appearance, and the *Protonotaries* to all after) did enter Declarations, Imparances, Judgments and Pleas; whereunto a Serjeants hand was not requisite, and made out writs of Execution, and divers other Judicial writs after Appearance. And in the *Kings Bench* of later times, there have been *Filacers* who make Process upon Original writs returnable in that Court, upon Actions *contra pacem*. The *Filacers* of the *Common-Pleas* having been Officers of that Court before the Statute of 10 H. 6. cap. 4. wherein they mentioned

Filiolus, A little Son properly, sometimes taken for a God-son, sometimes for a Nephew.

Filkale. See *Sorhale* and *Pilkale*.

File, *Filacium*, Is a Thread or Wyre, whereon writs and other exhibits in Courts and Offices are filed, for the more safe keeping of them.

Finders, 18 E. 3. Stat. 1. and 14 R. 2. cap. 10. Seem to be all one with those which now we call *Searchers*. See 17 H. 2. cap. 5. 1 H. 4. 13. and 31 Hen. 6. cap. 5. They are employed for the discovery of Goods imported or exported, without paying Customs.

Fine, *Finis*, Hath divers Applications in the Common-Law, sometimes being used for a formal or ceremonious Conveyance of Lands or Tenements: Or as *West* saith, tit. *Fines*, *sect. 25.* of any thing inheritable, being in esse tempore *finis*, to the end to cut off all Controversies. The same *West* in his 2. par. *Symbol. sect. 1.* thus defines it, To be a Covenant made before Justices, and entered of Record. But *Glanville* more nobly thus, *Lib. 8. cap. 1.* *Finis est amicabile compositio & finalis concordia ex consensu & licentia Domini Regis vel ejus Justiciariorum.* And *Lib. 9. cap. 3.* *Tolis concordia finalis dicitur, eo quod finem imponit negotio, adeo ut neutra pars litigantium ab eo de cetero poterit recedere.* And *Bracton*, *lib. 5. cap. 28. num. 7.* thus, *Finis ideo dicitur finalis concordia quia imponit finem litibus & est exceptio peremptoria.* The Author of the *New Termes of the Law* defineth it to be a final Agreement, had between persons concerning any Lands or Rent, or other thing whereof any Suit or Writ is between them, hanging in any Court. See the *New Book of Entries, verbo Fines*, and 27 E. 1. Stat. 1. cap. 1. This *Fine* is of so high a Nature, that *Bracton*, *lib. 3. cap. 7. num. 3.* saith of it thus, *Item immediate pertinet ad Regem querela finis facti in curia Domini Regis & non observati, & est ratio, quia nemo potest finem interpretare nisi ipse Rex, in cuius curia fines fiunt.* The *Civilians* would call this Solemn Contract, *Transactionem judicalem de re immobili*, because it hath all the Properties of a Transaction, if it be considered in the original use, *Wesemb. parat. tit. de Transact.* For it appeareth by the Writers of the Common-Law before recited, that it is nothing but a Composition or Concord acknowledged, and recorded before a competent Judge, touching some Hereditament, or thing immovable, that before was in Controversie between the Parties to the same Concord: And that for the better credit of the Transaction, being by imputation, made in the presence of the King, because it is levied in his Court; and therefore doth it bind Women covert being parties, and others, whom ordinarily the Law disableth to transact, onely for this reason, that all presumption of deceit or evil meaning is excluded, where the King is privy to the act. [Originally the use of this final Concord was instituted and allowed, in regard that by the Law, and ancient Proceedings, no Plaintiff (giving real Security *de clamore suo prosequendo*), could agree without Licence of the Court: So as *Fines* have been anciently levied in personal Actions.] But subtilty of wit and reason hath in time wrought other uses of this Concord, which in the beginning was but one, viz. to secure the Title that any man hath in his possession against all men; to cut off Entails, and with more certainty to pass the Interest or Title of any Land or Tenement, though not controverted, to whom we think good, either for years or in fee: Inasmuch, that the passing of a *fine*, in some cases, now is but *mera filio Juris*, alluding to the use for which it was invented, and supposing a doubt or controversy, where in truth none is; and so not onely to work a present Prescription against the Parties to the Concord or *Fine*, and their Heirs, but within five years against all others, not expressly excepted (if it be levied upon good consideration, and without covin) as Women-covert, persons under one and twenty years of age,

age, Prisoners, or such as be out of the Realm at the time when it was acknowledged. Touching this matter, see the Statutes, 1 R. 3. cap. 7. 4 H. 7. cap. 24. 32 H. 8. 36. and 31 Eli. 2. This *Fine* hath in it five essential parts; 1. The Original Writ taken out against the Cognisor. 2. The Kings Licence, giving the Parties liberty to accord, for the which he hath a *Fine* called *The Kings Silver*, being accounted a part of the Revenue of the Crown. 3. The Concord it self which thus beginneth, *Et est concordia talis, &c.* 4. The note of the *Fine*, which is an abstract of the Original Concord, and beginneth in this manner, *sc. Inter R. Querentem & S. & E. uxorem ejus desorciantes, &c.* 5. The foot of the *fine*, which beginneth thus, *Hac est finalis concordia facta in curia Domini Regis apud Westm. a die Pasche in quindecim dies, anno, &c.* So as the foot of the *fine* includeth all, containing the day, year and place, and before what Justice made, *Co. vol. 6. fol. 38, 39. Teyes Case*. This *fine* is either single or double, A single *fine* is, that by which nothing is granted or rendered back again by the Conusees to the Conusors, or any of them. A double *fine* containeth a grant and render back again, either of some Rent, Common, or other thing out of the Land, or of the Land it self to all, or some of the Cognisors for some Estate, limiting thereby many times remainders to strangers, which be not named in the Writ of Covenant, *West. ubi supra, sect. 21.* Again a *Fine* is of the effect divided into a *fine executed*, and a *fine executory*. A *fine executed*, is such a *fine*, as of his own force giveth a present possession (at the least in Law) unto the Cognisee, so that he needeth no Writ of *Habere facias seisinam* for the execution of the same, but may enter; of which sort is a *Fine*, *Sur cognizance de droit come ceo que il ad de son done*, that is, upon acknowledgment that the thing mentioned in the Concord be *his ipsius Cognizati ut illa que idem habet de dono Cognitoris, West. sect. 51.* And the reason of this seemeth to be, because this *fine* passeth by way of Release of that thing, which the Cognisee hath already (at least by supposition) by vertue of a former Gift of the Cognisor, *Co. Rep. lib. 3. fol. 89. Case of Fines*, which is in very deed the surest *fine* of all *Fines executory* be such as of their own force do not execute the possession in the Cognisees, as *fines sur Conscience de droit tantum*, *fines sur dones*, Grant, Release, Confirmation or Render; for if such *fines* be not levied, or such Render made unto them that be in possession at the time of the *fines* levied, the Conusees must needs sue Writs of *Habere facias seisinam*, according to their several Cases, for the obtaining of their Possessions except at the levying such executory *fines*, the Parties unto whom the Estate is by them limited, be in possession of the Lands passed thereby: For in this case such *fines* do enure by way of extinguishment of right, not altering the estate of Possession of the Cognisee, but perchance bettering it, *West, ubi supra, sect. 20.* Touching the form of these *fines*, we must consider, upon what Writ or Action the Concord is to be made, and that is most commonly upon a Writ of Covenant; and then first there must pass a pair of Indentures between the Conusor and Conusee, whereby the Conusor covenanteth with the Conusee, to pass a *fine* unto him of such or such things, by a day set down: And these Indentures,

as they are first in this proceeding, so are they said to lead the *fine*; Upon this Covenant, the Writ of Covenant is brought by the Conusee against the Conusor, who hereupon yieldeth to pass the *fine* before a Judge; and so the acknowledgment being recorded, the Cognisor and his Heirs are presently concluded, and all Strangers not excepted, after five years once passed. If the writ whereupon the *fine* is grounded be not a writ of Covenant, but of *Warrantia Charta*, or writ of Right, or a Writ of Mesne, or a Writ of Customs and Services (for all these *fines* may also be founded, *West (ubi supra) sect. 23.*) then this form is observed, the Writ is served upon the Party that is to acknowledge the *fine*, and then he appearing, doth accordingly, see *Dyer, fol. 179. num. 46.* [*Fines* are now onely levied in the Court of Common-Pleas at Westminster, in regard of the Solemnity thereof, ordained by the Stat. 18 E. 1. that before were levied in other places.] This word *fine*, sometimes also signifieth a sum of Money paid for an Income to Lands or Tenements let by Lease, anciently called *Gersuma*; sometimes an amends, pecuniary punishment or recompence upon an Offence committed against the King and his Laws or against the Lord of a Mannor: In which case a man is said *Finem facere de transgressionem cum Rege, &c.* *Reg. Jud. fol. 25. a.* And of the diversity of these *Fines*, with other matter worth the learning, see *Cromptons Justice of Peace, fol. 141. 143. 144. and Lambards Eiren. lib. 4. cap. 16. pag. 555.* But in all these diversities of Uses, it hath but one signification, and that is a small Conclusion, or end of Differences between Parties. And in this last sense, wherein it is used for the ending and remission of an Offence, *Bracton* hath it; *Lib. 2. cap. 15. item. 8.* speaking of a common *fine*, that the County payeth to the King for false Judgments, or other Trespases to be assessed by the Justices in Eyre before their departure, by the Oath of Knights, and other good men, upon such as ought to pay it, with whom agreeth the Statute 3 E. 1. cap. 18. There is also a common *fine* in Leets; see *Kitchin, fol. 13.* Vide *Common Fine.* See *Fleta. lib. 1. cap. 48. and Co. on Lit. fol. 126.*

Fines for Alienation. Are reasonable *Fines* paid to the King by his Tenants in chief, for licence to alien their Lands according to the Stat. 1 E. 3. cap. 112. But see the Statute lately made, 12 Car. 2. cap. 24.

Fines pro licentia concordandi. See 21. H. 8. cap. 1. See *Fine*.

Fine force, Cometh of the French Adjective *Fin*, signifying sometimes crafty, sometimes artificial or exact, and the Substantive *force* in Latine *Vis*; so that it signifies an absolute necessity or constraint not avoidable; as when a man is constrained to do that which he can no way avoid, we say, He doth it *de fine force*, and in this sense it is used, *Old Nat. Breu. fol. 78.* and in the Statute 35 H. 8. cap. 12. and in *Perkins Dower* 321. In *Mantell and Woodlands Case*; *Plow. fol. 94.* And in *Eytons Case*, cited in *Foxleys Case, Co. 6. Rep. fol. 111.*

Fine annullando levato de Tenemento quod fuit de antiquo dominio. Is a Writ to the Justices, for the disannulling of a *Fine* levied of Lands holden in ancient Demesne

to the prejudice of the Lord, *Regist. Orig. fol. 15.*

Fine capiendū pro terris, &c. Is a Writ lying for one that, upon Conviction by a Jury, having his Lands and Goods taken into the Kings Hands, and his Body committed to Prison; obtaineth favour for a sum of Money, &c. to be remitted his Imprisonment, and his Lands and Goods to be redelivered unto him, *Reg. Orig. fol. 142.*

Fine lebandū de Tenementis centis de Rege in Capite, &c. Is a Writ directed to the Justices of the Common-Pleas, whereby to licence them to admit of a Fine for sale of Lands holden in Capite, *Reg. Orig. fol. 167.*

Fine non capiendū pro pulchre placitādo, Is a Writ to inhibit Officers of Courts, to take Fines for fair pleading, *Reg. Orig. fol. 179. See Pledar.*

Fine pro reviviscētia captendū, &c. Is a Writ that lyeth for the release of one laid in Prison for a *Redditiū*, upon a reasonable Fine, *Reg. Orig. fol. 222.*

Fina ry See *Blomary.*

Kindis of Gold and Silver. Be those that purifie and separate those Metals from other courser, by Fire and Water, *Anno 4 H. 7. cap. 2.* They be also in the same place called *Parters*, sometimes *Departers*.

Filicetum, A brackly Ground, *Ubi filices crescant. Co. 1. Inst. 4. b. See Downsay.*

Fineale. See *Fineale.*

Firebarr, That without delay, they raise and repair the Signs and Beacons upon the highest Hills in every Hundred, that the whole Country by those Signs, as often as necessity shall require, may be forewarned, &c. *Ordinatio pro Vigil. observanda a Lincolnijs, ad Yarmouth cap. E. 2.* Per adventure derived from the Saxon *Fypton*, a Beacon, or high Tower, near the Sea-side, wherein were lights, either to direct Saylor in the Night, or to give warning of the Enemy.

Firebote, For the Composition of the word, see *Hay-bote.* It signifyeth an allowance of Wood or Stovers, to maintain competent firing for the use of the Town.

Firma, Adfirmam noctis, Was a Custom or Tribute paid towards the entertaining of the King for one Night, according to *Domesday, Comes Meriton T. R. 10 E. 1. et debuit firmam unius noctis;* that is, entertainment for one Night, or the value of it. *Firma Regis, anciently pro villa Regis.* By a Charter of King *Edgar* in *Essex* it is limited to a penalty, to pay one Nights *Firma*, if the privileges be broken by any man. See *Domesday.*

First-fruits, Primicias, Are the Profits of every Spiritual Living for one year, given in ancient time to the Bishop throughout all Christendome. But by the Stat. 26 H. 8. cap. 3. translated to the King here in England; for the ordering whereof, there was a Court erected 32 H. 8. cap. 45. but again dissolved *Anno primis Maris, Sess. 2. cap. 10.* And since that time, though those Profits be reduced again to the Crown by the Statute 1 Edw. 4. yet was the Court never restored, but all matters therein wont to be handled, were transferred to the *Exchequer.* See *Annals.*

Fish-garth, 23 H. 8. cap. 18. A Dam or Weare in a River, made for the taking of Fish, especially in the Rivers of *Ouse* and *Humber.* See *Garth.*

Fitch. See *Furze.*

Fithwite, But more rightly *Fithewite*, From the Saxon *Feoht* and *piet*, *multa*; so that it is a Fine laid upon one for fighting and breaking the Peace: *Si pugnaverint & perculerint se quavis sanguinem non extraxerint, Prior habebit inde Fithwite;* that is, *amerciamēta*, *Ex Registro Priorat. de Cokesford.*

Fitzherbert, Was a famous Lawyer in the Dayes of King Henry the Eighth, and was chief Justice of the Common-Pleas; He wrote two Books of great Reputation, one *An Abridgement of the Common Law*, another intituled, *De Natura Brevium.*

Fleppit, Cometh of the Saxon word *Fled*, that is, a fugitive and wise, which some make but a termination, signifying nothing of it self; howbeit others say, it signifies a Reprehension, Censure or Correction. It signifies in our Law, a discharge or freedome from *Amerciaments*, where one having been an outlawed Fugitive, cometh to the Peace of our Lord the King of his own accord. *Rastals Exposition* of words, and *Termes de la Ley.* See *Bloodwit* and *Childwit.* See *Elitwit.*

Fleet, A famous Prison in London, so called, as it seemeth, of the River upon whose side it standeth, *Cand. Brit. pag. 317.* Unto this none are usually committed, but for contempt to the King and his Laws, or upon absolute Command of the King, or some of his Courts. Or lastly, Upon Debt, when men are unable, or unwilling to satisfy their Creditors.

Flem and Fleth, Saxon *Flema*, an Out-law, and *Flet*, a House, In a Plea of *Quo War-ranto*, *Abbas de Burgo dicit quod clamat animum & vastum & medium tempus per hec verba Flem & Fleth, Trin. 7 Ed. 3.*

Flemenes-firith, But more truly *Fly-mena frymbe.* Vide *Leg. Ine, cap. 29. & 47. Leg. etiam H. 1. cap. 10. 12.* It signifies the relieving of a Fugitive, *Cum Sacha & Socha, Tol & Team, In-fangtheof & Flemenes fryrthe et Gridbrech, Forsthal, Hamsce, Blodwite, Ordal & Oreste. Carta Edw. Conf. Mon. de Waltham.* This word is variously written in old Charters, as *Flemenesferd, Flemenesfrith, Flemenesfremith, Flemanisfrith, Flemeneword, Fremenesfenda, and Flemenesfrithbe*, but without question intending the same thing.

Flemenesfreme and Flemenesfrenche, Are said to be the Chattels of Fugitives, *Mich. 10 H. 4. Hertif. 59. Coram Rege, Rot. 59. See Flemenesfrymbe.*

Flemeswite, Signifies the liberty to challenge the Cattel or *Amerciaments* of your Man a Fugitive, *Rastals Exposit. of words.* *Flet* writes it two different wayes, viz. *Flemenesfreme* and *Flemenesfreithe*, and interprets it, *Habere catalla Fugitivorum, Lib. 1. cap. 47. See Flem and Flemenesfrymbe.*

Fleta, A feigned Name of a learned Lawyer, that writing a Book of the Common Law of England, and other Antiquities in the *Fleet*, termed it thereof *Fleta.* He lived in the times of *Edw.*

Edw. the Second and **Edward** the Third. See his First Book, cap. 20. *señt. Qui ceperint*, and lib. 2. cap. 66. *señt. Item quod nullus*.

Fletwite alias **Fredwite**, *Skene de verb.* Signif. verb. Melletum, faith, That *Flichwite* is liberty to hold Courts, and take up the Amerciaments *pro melletis*, and the reason he gives is, because *Flicht* is called *Flitting*, in French *Melle*, which sometime is conjoyned with *Hand-stroke*, and in some Books *Placitum de melletis*, is the Plea of beating or striking. See *Fledwitt*.

Fliberthrift, But indeed more truly *Slide-thrift*, otherwise called *Shovegroat*, is the Game now known by the name of *Shovel-board*, mentioned 32 H. 8. cap. 9.

Flichtwite alias **Flicwite**, *Spelman* says, It signifies *Mulctam* ob contentiones, rixas & jurgia impositam, & cui hæc a Principe conceduntur; potest in curia sua cognoscere, de hujusmodi transgressionibus & mulctas inde provenientes, &c. a delinquentibus exigere & sibi retinere.

Flight. See *Finer*.

Florences, A kind of Cloth so called, *Anno* 1 R. 3. cap. 8.

Flotages, That is, a swimming at the top, which we properly call *floating*, are such things as swim on the top of the Sea, or other great Rivers; the word is used sometimes in the Commissions of *Water-Bailiffs*.

Floston alias **Flozram**, Is a word proper to the Seas, signifying any Goods that by Shipwrack be lost, and lye floating or swimming upon the top of the water, which with *leson*, and *Lagon*, and *Share*, are given to the Lord Admiral by his Letters Patent. *leson* is a thing cast out of the Ship, being in danger of wreck, and beaten to the shore by the Waters, or cast on the shore by the Mariners, Co. vol. 6. fol. 106. *Lagon* alias *Lagan* or *Ligan*, is that which lyeth in the bottom of the Sea, Co. ibid. *Share*, are Goods due to more by proportion. See Co. lib. 5. Sir Henry Constables Case.

Foder, *Fodrum*, Signifies in plain English any kind of Meat for Horses, and other Cattel. But among the *Feudists* it is used for a Prerogative that the Prince hath to be provided of Corn, and other Meat for his Horses, by his Subjects, towards his Wars, or other Expeditions. *Arnoldus Clapmarius de arcanis Imperii*, lib. 1. cap. 11. and *Hotoman de verbis feudalis*, litera F.

Fogage, *Fogagium*, Rank Grass not eaten in Summer, *Leg. Forestar. Scot.* cap. 15.

Folclands, Copy-hold Lands, so called in the time of the Saxons, as *Charter-Lands* were called *Boc-lands*, *Kitchin* 174. *Fundus sine scripto possessus* (sayes Master *Sommer*) *consensu pensitans annuum & officiorum servituti obnoxius*, *Terra Populatrix*.

Folcmote or **Folkemote**, Saxon *Folk-gemet*, that is, *Conventus populi*, compounded of *Folke* *populus*, and *Gemetan* *convenire*, signifies (as *Lambert* faith in his Exposition of Saxon words, verbo *Conventus*), two kinds of Courts; one now called *The County-Court*. The other, *The Sheriffs Turn*. This word is still in use in the City of London, and denotes *Celebrem ex tota civitate conventum*, *Stowes Survey of London*. But *Manwood* sayes in his *Forest Laws*, *Folke* is the Court

holden in London, wherein all the *Folk* and *People* of the City did Complain of the Mayor and Aldermen, for misgovernment within the City. Mr. *Sommer* in his *Saxon Dictionary* sayes. It is a general Assembly of the People, to consider and order Matters of the Common-wealth. *Omnes proceres Regni & milites & liberi homines universi totius Regni Britannia facere debent in pleno Folcmote fidelitatem Domino Regi, &c.* In *Leg. Edw. Conf.* cap. 35.

Fold-course, *Cro.* 2. par. fol. 432. Vide *Faldage*.

Folgheres, or rather **Folgers**, Be *Followers*, if we interpret the word according to the true signification: *Bracton* faith it signifies, *Eos qui aliis deserviunt*, lib. 3. tract. 2. cap. 10.

Footgelde, Is an Amerciament for not cutting out the Balls of great Dogs feet in the Forest, for which see *Expeditate*. And to be quit of *Footgelde*, is a privilege to keep Dogs within the Forest unlawed, without punishment or Control, *Crompt. Jur. fol. 197.* *Manwoods Forest Law*, cap. 25. num. 3. See *Foutgeld*.

Foot of the fine. See *Chirographer*.

Forage, Fodder for Cattel, *Cestes sont Convenants faits le vendredy prochain devant la feste de saint Jacques l'apostle, &c.* 30 E. 1. Et le dit. J. trovera audit N. herbe & feyne & forage pour un Hakeney, &c.

Forathe, *Liberalis autem homo* (i.) *Pegen modo crimen suum non sit inter majora, habeat fidelem hominem qui possit pro eo jurare juramentum, (i.) Forathe si autem non habet, ipsemet juret, nec pardenetur ei aliquod juramentum, Confiti.* *Canuti Regis de Forest*, cap. 12. cited by *Manwood* in his *Forest Law*, pag. 3.

Forbarre or **Forabar**, Is for ever to deprive, 9 R. 2. cap. 2. and 6. H. 6. cap. 4.

Forbutter of Armo, *Forbator*, *Si quis forbator arma alicujus resciperit adpurgandum*, &c. *Leg. Aluredi*, M. S. cap. 22.

Force, *Vit*, In our Common-Law it is most usually applied in *pejorem partem*, signifying unlawful Violence. *West* thus defines it, *Symb. part. 2. tit. Indisements, señt. 65.* Force is an offence by which Violence is used to persons or things; where also he divideth it thus, Force is either *simple* or *compound*, *Simple force* is that which is so committed, that it hath no other Crime adjoyned to it; As if one by force do enter into another mans Possession, without doing any other unlawful act. *Mixt or compound force*, is that Violence which is committed with such a fact, as of it self onely is criminal: As if any by force enter into another mans Possession, and kill a man, or ravish a woman there, &c. He farther divideth it into true force, and force after a sort, and so proceedeth to divers other Branches worth the reading, as forcible Entry, forcible Detaining, unlawful Assembly, Routs, Riots, Rebellions, &c.

Forcible detaining or holding of Possession, Is a violent act of Resistance by strong Hand of Men weaponed with Harneffe, or other action of fear in the same place, or elsewhere, whereby the lawful Entry of Justices, or others, is barred or hindered, *West Symbol. part 2.*

tit. Indictments, *sect.* 65. Of this see *Crompt. Just.* of Peace, *fol.* 58, *usq;* ad 63.

Forcible Entry, Ingressus manu forti factus, Is a violent actual Entry into a House or Land, &c. or taking a Distress of any person weaponed, whether he offer violence or fear of hurt to any there, or furiously drive any out of the Possession thereof, *West Symbol. part.* 2. tit. Indictments, *sect.* 65. *Crompt. Just.* of Peace, *fol.* 58, 59. *usq;* ad 63. It is also used for a Writ grounded upon the Statute 8 H. 6. 9. whereof read *F. N. B.* *fol.* 248. See the New Book of Entries, verbo Forcible Entry. See Lamb. Definition in certain cases, *Eiren. lib.* 2. *cap.* 4. *pag.* 145.

Foraigne, Fr: Forain Lat. Forinsecus, is in Law used Adjectively, being joyned with divers Substantives in several senses, not unworthy the Exposition; as *Foraigne Matter*, that is, Matter triable in another County, *Pl. cor.* 154. Or Matter done in another County, *Kitchin. fol.* 126. *Forein Plea, Forinsecum placitum*, is a refusal of the Judge as incompetent, because the Matter in hand was not within his Precinct, *Kitchin. fol.* 75. *et an.* 4 H. 8. *cap.* 2. *et* 22 H. 8. *cap.* 2. *et* 14. *Forein Answer, Forinseca Responsio*, that is, such an Answer as is not triable in the County where it is made, 15 H. 6. *cap.* 5. *Foreign Service, Forinsecum servitium*, that is, such Service whereby a mean Lord holdeth over of another, without the compass of his own fee, *Bro. tit. Tenures, fol.* 251. *num.* 12. *et* 28. *et* *Kitchin. fol.* 209. Or else that which a Tenant performeth either to his own Lord, or to the Lord Paramount out of his Fee. Of these Services *Bracton* speaketh thus, *Item sunt quedam servitia que dicuntur forinseca quomodo sunt in Charta et de Feoffamento expressa et nominata, et que ideo dici possunt forinseca, quia pertinent ad dominum Regem et non ad Dominum capitalem, nisi cum in propria persona profectus fuerit in servitio, vel nisi cum pro servitio suo satisfecerit Domino Regi quocumque modo et sunt incertis temporibus cum casus et necessitas evenierit et varia habent nomina et diversa: Quandoque enim nominantur forinseca; large sumpto vocabulo, quoad servitium Domini Regis; quandoque, scutagium; quandoque, servitium Domini Regis et ideo forinsecum dici potest, quia sit et capitur foris, sive extra servitium quod fit Domino Capitali. Vide Bro. Tenures 28. 95. Foreigne Service, seemeth to be Knights-service, or Escuage uncertain, *Perkins Reservation* 650. *Foreigne Attachment, Attachiamantum forinsecum*, Is an Attachment of *Foreiners* Goods found within a Liberty or City, in the Hands of a third person, for the satisfaction of some Citizen, to whom the said *Foreiner* oweth Money. At *Lemster* (anciently *Leominstre*) there is the Burrough and the *Foreigne*, which last is within the Jurisdiction of the Manor, but not within the Liberty of the Bayliff of the Burrough. *Foreigne Apposer or Opposer*, Is an Officer in the *Exchequer*, to whom all Sheriffs and Bayliffs do repair to be apposed by him of their Green Wax, after they are apposed of their Sums out of the Pipe-Office; and from thence draws down a Charge upon them to the Clerk of the Pipe: His business is to examine the Sheriffs *Estreats* with the Record, and to ask the Sheriff, what he sayes to every particular Sum therein. Vide, *The Practice of the Exchequer. fol.* 87. and 4. *Inst. fol.* 107.*

Fozera, Terra transversalis seu Capitalis. A Headland, or (as they vulgarly call it) *Hadeland*, — *Uno capite abuttante super Foreram Rogeri Attecastel, Carta de anno* 47 E. 3.

Forest, Foresta, Sgnifies a great or vast Wood, in French *Lieu Forestier* *et* *Sauvage*, is *Locus sylvestris et saltuosus*. Such as have written upon the Common-Law, define it thus, *Foresta est locus ubi fera inhabitant vel includuntur*, with whom agree several others. Some do say it is called *Foresta quasi ferarum statio vel tuta Mansio ferarum*. *Manwood* in his *Forest Laws*, *cap.* 1. *num.* 1. thus defineth it, A Forest is a certain Territory of woody Grounds, and fruitful Pastures, privileged for wild Beasts, and Fowls of Forest, Chase, and Warren, to rest and abide in the safe Protection of the King, for his Princely delight and pleasure; which Territory of Ground so privileged, is meered & bounded with unremoveable Marks, Meers and Boundaries, either known by matter of Record, or else by Prescription, and also replenish with wild Beasts of Venery or Chase, and with great Coverts of Vert, for the succor of the said wild Beasts to have their abode in; for the preservation and continuance of which said place, together with the Vert & Venison, there are certain particular Laws, Priviledges and Officers belonging only to the same. The manner of making Forests, as the same Author well setteth down, *cap.* 2. *num.* 2. is this. The King sends out his Commission under the Great Seal of England, directed to certain discreet persons, for the view, perambulation, meering and bounding of the place he mindeth to a Forest; which being returned into the Chancery, Proclamation is made throughout all the Shire where the Ground lyeth. That none shall hunt or chase any manner of wild Beasts in that Precinct, without the Kings special Licence; after which, He appointeth Ordinances, Laws, and Officers fit for the preservation of the Vert and Venison; and so it becometh a Forest by matter of Record. The Properties of a Forest are these in especial; First, A Forest, as it is truly and strictly taken, cannot be in the Hands of any but the King; the reason is given by *Manwood*, because none hath Power to grant Commission to be a Justice in Eyre for the Forest but the King, *cap.* 24. *num.* 1. The second property, be the Courts, as the Justice-seat every three years; the Swainmote thrice every year; and the Attachment once every forty dayes, *Idem. cap.* 21. *num.* 1. The third property, are the Officers belonging to it, for the preservation of the Vert and Venison: As first, the Justices of the Forest, the Warden or Keeper, Verderers, Foresters, Agistors, Regarders, Bayliffs, Beadels, and such like, which you may see, and their Duties, in *Manwood*, *cap.* 21. *num.* 1, 2, 3, 4. But the chief property of a Forest both by *Manwood*, *cap.* 23. and *Crompt. pag.* 146. is the Swainmote, which, as they both agree, is no less incident to it, than a Court of Pye-powders to a Fair. Other Courts and Offices are not so requisite in those Forests that are in the Hands of Subjects, because they be not truly Forests. But if this fail, there remains nothing of a Forest, but it is turned into the nature of a Chase, see Chase. The Forests that I have read of in England are these, The Forest of Windsor in Berkshire, *Cam. Brit. pag.* 213. Of Pickering, *Crompt.*

Crompt. 190. Of *Shirwood*, Id. fol. 202. Of *Englewood* in *Cumberland*, Anno 4 H. 7. cap. 6. And *Crompt.* fol. 42. Of *Lancaster*, Idem. fol. 196. Of *Wolmore*, *Stowes Annals*, pag. 462. Of *Gillingham*, Idem. pag. 113. Of *Knaresborough*, 21 H. 8. 17. Of *Waltham Carol*, Brit. 328. Of *Breden*, Idem. pag. 176. Of *White hart*, Id. 150. Of *Wiersdale*, Id. pag. 589. Of *Lownesfall*, ibid. Of *Dean*, Id. pag. 266. 8 H. 6. 27. 19 H. 7. cap. 8. Of *St. Leonards* in *Suffex*, *Manwood*, pag. 1. 144. Of *Waybridge* and *Sapler*, Id. pag. 63. Of *Whitney*, Ibid. 81. Of *Fekenham*, *Cambr.* pag. 441. Of *Rockingham*, Id. 396. *Forest de la mer*, Id. 467. Of *Huckestow*, Id. 456. Of *Ashdowne* in the County of *Suffex*, 37 H. 8. 16. Of *Whittlewood*, and *Swasy* in the County of *Northampton*, 32 H. 8. cap. 38. Of *Fronstewood* in the County of *Somerset*, Co. lib. 2. *Cromwells Case*, fol. 71. *Waterdown-Forest*, *Amdelworth* and *Dallington*, all in *Suffex*, besides several others. See 17 Car. 1. cap. 16.

Forestagium, Seems to signify some Duty or Tribute payable to the Kings Foresters, as *Chiminages*, or such like; *Et sint quieti de Theolonio & Passagio, & de Forestagio, &c.* Carta 18. E. 1. m. 10. n. 30.

Forestal. See *Forstal*.

Fore-closed, 33 H. 3. 39. Barred, and utterly excluded for ever, 2 par. *Inst.* fol. 298.

Forester, *Forestarius*, Is a sworn Officer of the *Forest*, appointed by the Kings Letters Patents, to walk the *Forest* both early and late, watching both the Vert and the Venison, attaching and presenting all Trespassers against them within their own Bayliwick or Walk, whose Oath you read in *Crompt.* fol. 201. And though these Letters Patent be ordinarily granted but *quamdiu se bene gesserint*; yet some have it to them and their Heirs, and thereby are called Foresters in Fee, Id. fol. 157. 159. By the same *Crompton* in *Latine*, fol. 175. *Forestarium feudi*.

Forejudget, *Forjudicatio*, Signifies a Judgment, whereby a Man is deprived, or put by the thing in question: It seemeth to be compounded of *For*, i. *præter* and *judget* *judicare*. *Bracton*, lib. 4. tract. 3. cap. 5. hath these words, *Et non permittis quod A. capitalis Dominus feudi illius habeat custodiam heredis, &c. quia in curia nostra foris judicatur de custodia, &c.* So doth *Kitchin* use it, fol. 29. and *Old Nat. Brev.* fol. 44. & 81. and the Stat. 5 E. 3. cap. 9. and 21. R. 2. cap. 12. *Forjudicatus*, with Authors of other Nations, signifies as much as Banished, or as *Deportatus* in the ancient Roman Law, as appeareth by *Vincentius de Franchis*, de scis 102. *Matheus de afflicis*, Lib. 3. Feud. Rub. 31. pag. 625.

Forejudget the Court, Is, when an Officer of any Court is expell'd the same for some Offence, or for not appearing to an Action by Bill filed against him, and in the later he is not to be readmitted, till he shall appear, 2 H. 4. 8. He shall lose his Office, and be forejudget the Court. *Spelman* sayes, *Forjudicare interdum est male judicare*.

Foregoers, Be purveyors going before the King and Queen in Progress, to provide for them, Anno 36 E. 3. cap. 5.

Forfeiture, *Forisfactura*, Cometh of the French word *Forfait*, id est, *seelus*; but in our Language signifies rather the effect of transgres-

sing a penal Law, then the Transgression it self; as forfeiture of Elcheats, 25 E. 3. cap. 2. *Stat. de Proditionibus*: How Goods forfeited, and Goods confiscated differ, see *Stam. pl. cor. fol. 186*, where those seem to be forfeited that have a known Owner, having committed any thing whereby he hath lost his Goods; & those confiscate, that are disavowed by an Offendor, as not his own, nor claimed by any other; but we may rather say, that Forfeiture is more general; and Confiscation more particular, to such as forfeit onely to the Kings Exchequer. Read the whole Chapter, *Lib. 3. cap. 24*. Full forfeiture, *Plena forisfactura*, otherwise called *Plena vita*, is forfeiture of Life and Member, and all else that a man hath, *Manwood*, cap. 9. The Canonists use also this word *Forisfactura sunt pecunia rixæ pæne delinquentium*.

Forfeiture of Parriage, *Forisfactura Maritagi*, Is a Writ lying against him, who, holding by Knights-service, and being under age, and unmarried, refuses her whom the Lord offers him without his disparagement, and marryeth another, *F. N. B. fol. 141. Reg. Orig. fol. 163*.

Forfang, *Antecapio*, What we use to call Pre-emption, is the taking of Provision from any one in Fairs or Markets, before the Kings Purveyors are served with Necessaries for his Majesty. *Et sint quieti de Wardwite, et de utlewe et Forvenge et Withfang, &c.* Carta Hen. 1. *Hoff. sancti Barth.* London. Anno 1133.

Forfeng, *Quietantiam prioris prisæ designat* in hoc enim delinquent *Burgenfes Londonenses, cum prisas suas ante prisas Regis faciunt*, *Fleta*, lib. 1. cap. 47. See *Forfange*.

Forgery, See the word next following, viz. *Forger of false Deeds*.

Forger of false Deeds, Cometh of the French *Forger*, i. *accudere*, to beat on an Anvil like a Smith, or else to fashion or bring into shape; and signifies in our Common-Law either him that fraudulently maketh and publisheth false Writings, to the prejudice of any Mans Right, or else the Writ that lyeth against him that committeth this Offence, *F. N. B. fol. 96*. calleth it a Writ of Deceit. See *Termes of the Law*, verbo *Forger of false Deeds*, and *West. Symb. part. 2. tit. Indictments*, sect. 66. See the *New Book of Entries*, verbo *Forger de Faits*. This is a branch of that which the Civilians call *Crimen falsi*, Nam *falsarius est, qui decipiendi causa scripta publica falsificat. Speculator de crimine falsi, falsi crimen propriæ dicitur quod utilitatis privata causa factum est. Connanus*, lib. 5. cap. 7. num. 4. *Ad esse falsitatis tria requiruntur, mutatio veritatis, dolus et quod alteri sit nocivum, &c.* The penalty for this Offence is declared in the Statute of 5 Eliz. 14.

Forister. See *Forester*.

Foristel, *Forestal*, Properly signifies the stopping up of wayes; but now is vulgarly used for such as intercept and buy things before they come to the Market, *Doomsday*. See *Forstal*.

Formedon, *Breve de forma Donationis*, Is a Writ that lies for him that hath right to any Lands or Tenements, by virtue of any Entail growing from the Statute of *Westm. 2. cap. 1*. It lyeth in three sorts, and accordingly is termed *Forma donationis*, or *Formedon in the Descender*, *Formedon in the Reverter*, or *Formedon in the Remainder*: *Formedon*

Forfeiture, *lyeth* for the recovery of Lands, &c. given to one and the Heirs of his Body, or to a man and his Wife, and the Heirs of their two Bodies, or to man and his wife being Coſin to the Donor in *Frank marriage*, and afterwards alienated by the Donee; for after his deceaſe, his Heirs ſhall have this Writ againſt the Tenant or Alienee, *F. N. B. fol. 211.* He maketh three ſorts of this *Forfeiture in Deſcender*: The firſt is in the manner now expreſt. The ſecond is for the Heir of a Coparcener that aliens and dies, *fol. 214.* The third he calls (*In ſimul tenuit*) *fol. 216.* which *lyeth* for a Coparcener or Heir in *Gavelkind* before partition, againſt him to whom the other Coparcener or Heir hath alienated, and is dead. *Forfeiture in the Reverter* *lyeth* for the Donor or his Heirs, where Land entail'd to certain and their Iſſue, with condition, for want of ſuch Iſſue, to revert to the Donor and his Heirs, againſt him to whom the Donee alienated, after the Iſſue extinct to which it was entail'd, *F. N. B. fol. 219.* *Forfeiture in the Remainder* *lyeth*, where a man giveth Lands in tail, the remainder to another in tail; and afterwards the former Tenant in tail dyeth without Iſſue of his Body, and a Stranger abateth, then he in the Remainder ſhall have this Writ, *Fiſth. Nat. Brev. fol. 217. ſee Reg. Orig. fol. 238, 242, 243.* Of this alſo ſee the *New Book of Entries*, verbo *Forfeiture*, and *Coſ. on Lit. fol. 326.*

Fornagium, Signifies the fee taken by a Lord of his Tenants bound to bake in his common Oven, as is uſual in the Northern-parts of England, or for permiſſion to uſe their own; alſo Chimney or Hearth-Money, ſee *Farnagt.* *Et Dominus Rex proinde amittit per an. de exitibus fornagii ſui 10. libras, Pl. coram Rege & ejus concil. in Parl. 18 E. 1. in Turri London.*

Fornication, *Fornicatio*, 1 H. 7. 4. Whoredome, the Act of Incontinency between ſingle-perſons; for if either Party be marry'd, it is Adultery: The firſt Offence herein was puniſht with three Moneths Imprisonment, the ſecond was made Felony in the late Times of Uſurpation, by a pretended Act made 1650. cap. 10. *Scobells Collection.*

Foreſtall, *Forepreſum*, May be derived from the French words *For*, that is, *extra* and *preſe*, *capio*, in which ſenſe it is uſed in the Statute of *Exon*, 14 E. 1. but there written *Horſpreſe*; we ſtill uſe it in Conveyances, wherein excepted and *foreſtall'd* is a uſual expreſſion.

Forein, Many times uſed for a *Foreiner*, 34 & 35 H. 8. cap. 18. See *Foreine.*

Foreſchoke, Seems to ſignifie originally as much as *Forſaken* in our Modern Language, or *Dereliſum* with the Romans: It is eſpecially uſed in one of our Statutes for Lands or Tenements ſeiſed by the Lord, for want of Services due from the Tenant, and ſo quietly held and poſſeſſed beyond the year and day. As if we ſhould ſay, that the Tenant, which ſeeing his Land or Tenements taken into the Lords hand, and poſſeſſed ſo long, taketh not the courſe appointed by Law to recover them, doth in due preſumption of Law diſavow or *forſake* whatſoever right he hath unto them; and then ſuch Lands ſhall be called *Forſchoke* ſayes the Stat. 10 E. 1. cap. unico.

Foſſes, *Catadupa*, *Waterfalls*, *Cam. Brit. tit. Weſtmerland.*

Foſſal, Is to be quit of Amerciaments, and Cattel arreſted within your Land, and the Amerciaments thereof coming ſayes, *Termes de la Ley.* But *Spelman* ſayes, 'Tis *via obſtracſio vel itineris interceptio*, with whom agrees *Co. on Lit. fol. 161.* In *Doomſday* 'tis written *Foriſtel*, which ſee before. *Dediq. eis forſtallum, &c. & terram que jacet ex utraq; part. ejusdem forſtalli, &c. Mon. Ang. 2. par. fol. 112. 60.*

Foreſtalling, *Foreſtallatio*, Or according to *Spelman*, *viarum obſtracſio*, ſignifies the Buying or Bargaining for any Viſtuals or Wares coming to be ſold towards any Fair or Market, or from beyond the Seas towards any City, Port, Haven, Creek, or Road of this Realm, and before the ſame be there, to the intent to ſell the ſame again at a higher and dearer price, 51 H. 3. Stat. 6. *Weſt Symbol. part. 2. tit. Indictments, ſect. 64.*

Foreſtaller, In *Cromptons Jurisdiction. fol. 143.* Is uſed for ſtopping of Deer broke out of the *Foreſt*, from returning home again, or laying between him and the *Foreſt* in the way that he is to return. See *Regrators and Engroſſers, Comp. Juſt. of Peace, fol. 69.* In the *Termes of the Law*, 'tis thus defined, *Foreſtalling*, *Foreſtallamentum*, is the buying of Corn, Cattel, or other Merchandiſe, by the way, as it cometh towards the Market or Fair to be ſold. *Meſta ſayes*, Significat obſtruſionem *viae vel impedimentum tranſitus & fuga averiorum*, lib. 1. cap. 47, who ſhall be adjudged a *foreſtal*. See in 5 & 6. E. 6. cap. 14. *Forſtal eſt, ſi aliquis portaverit bal- lec vel huiusmodi res ad forum, & ſtatim alius venerit et emerit ab ipſo illas res, ut carius vendat, Prior habebit emendas ab ipſo.* *Ex Reg. Priorat. de Cokesford. See 3. par. laſt. fol. 195.*

Fontecue, Was a learned Lawyer, and Lord Chancellor in the dayes of *Hen. 6.* who writ a Book in the Commendation of our Common-Law, intituled, *De Laudibus Legum Angliae.*

Fortilitie, *Fortilitium vel forteletum*, Signifies a fortified place, or Bulwark or Caſtle; ſo 'tis ſaid 11 H. 7. cap. 18. within the Towns and Fortilities of *Berwick* and *Carliffe.*

Fortlet, (*Fr.*) ſignifies a place of ſome Strength, *Old. Nat. Brev. fol. 45.*

Fortingles, Otherwiſe *Farthingdel*, is the fourth part of an Acre or Penny, &c. See *Farthingdeal*, ſee the Book of *Doomſday.*

Foſſa & furca. See *Furca.*

Foſſatum, A Ditch, or rather a place fenced with a Ditch, *Ex dono Henrici Regis qui noſtri unum foſſatum tam largum quod naues poſſint ire et redire a flumine de Withonia uſq; ad Tappolme Carta, 20 H. 3. m. 9.* where it ſeems to ſignifie the Trench of a cut River.

Foſſeway, From *Foſſus*, digged was anciently one of the four principal High-wayes of England ſo called; becauſe ſuppoſed to be digged and made paſſable by the Romans, and having a Ditch upon one ſide. See *Watling-ſtreet.*

Foſter-land, Is Land given, aligned or ſet forth, for the finding of Food or Viſtuals for any perſon or perſons; as in Monasteries, for the Monks, &c.

Foſher or **Fodder**, Is a weight of about a Tun, or twenty hundred, which is a Wain or Cart.

Cart-load. Speight in his *Annotations* upon *Chaucer*, in the Book of *Rates*, there is mention made of a *fodder* of Lead, which, according to *Skene*, is about one hundred twenty and eight stone.

Fourch, Afforcicare, Seemeth to come of the Fr. *Fourchir*, i. *titubare Lingua*, and signifies a delay, putting off, or prolonging of an Action, & it seems no unpleasant Metaphor, for as by flammering we draw out our Speech, not delivering that we have to say in ordinary time; so by *fourching* we prolong a Suit, that might be ended in a shorter space. To *fourch* by *Essoin*, *Westm.* 1. cap. 24. Anno 3 E. 1. where you have words to this effect; Coparceners, Joynt-tenants, and Tenants in common, may not *fourch* by *Essoin*, to *Essoin* severally, but have only one *Essoin*, as one sole Tenant may have. And Anno 6 E. 1. cap. 10. it is used in like sort. The Defendants shall be put to answer without *fourching*, &c. See 23 H. 6. cap. 2. and 2. *par. Inst.* fol. 250.

Foutgeld or Footgeld, Is a compound of two German words, viz. *Fous*, *pes*, and *Gylden solvere*; and signifieth an *Amerciament*, for not cutting out the balls of the feet of great Dogs within the Forest, see *Expeditate*. And to be quit of *Footgeld*, is a privilege to keep Dogs within the Forest, unlawed, without punishment or control, *Manwoods Forest Law*, cap. 25. num. 3.

Foundation, The *founding* of a Colledge or Hospital, is called *Foundatio quasi fundidatio*, or *fundamenti locatio*, Co. lib. 10.

Founder, Is he that melteth Mettal, and maketh any thing of it, by casting it into a mould, Anno 17 R. 2. cap. 1 derived from the Verb *Fundere*, to pour out. We also say, That whoever builds and endows a Colledge or Hospital is the *Founder*.

Fowles of Warren. See *warren*,

Frampole fences, Are such as any Tenant of the Manner of *Whittle* in *Essex* hath against the Lords *Demesnes*, whereby he hath the wood growing on the *Fence* and as many Trees or Poles as he can reach from the top of the Ditch with the Helve of his *Axe*, towards the repair of his *Fence*; but the reason of the name Etymologically we are yet to learn, and not willing to obtrude any idle fancy.

Franchise, Franchesia, Libertas, Is taken with us for a Priviledge or Exemption from ordinary Jurisdiction, and sometimes an immunity from Tribute: It is either personal or real, *Crompt. Jurisd.* fol. 141. that is, belonging to a person immediately, or else by means of this or that Place, or Court of Immunity, whereof he is either chief or a Member. In what particular thing a *Franchise* commonly consists, see *Britton*, cap. 19 *Franchise Royal*, 15 R. 2. cap. 4. and 2 H. 5. cap. 7. in fine, seemeth to be that where the Kings Writ runs, not as *Chester*, *Durham*, &c. which are called *Seigniories Royal*, Anno 28 H. 6. cap. 4. The Author of the *New Termes of the Law* saith, That *Franchise Royal* is, where the King granteth to one and his Heirs, that they shall be quit of Toll, or such like. See *Franchise* in the *New Book of Entries*, *Bracton*, lib. 2. cap. 5. See *Sac.* See also *Old Nat. Brev.* fol. 4.

Francigena. See *Englecery*.

Francling, A Freeholder, Qui liberè tenet, See *Fortescue de Laud. Leg. Ang.* cap. 29.

Frank-almoín, Libera Elemosyna, In French *Frank-almoine*, Signifies a Tenure or Title of Lands or Tenements bestowed upon God, that is, given to such People as bestow themselves in the Service of God, for pure and perpetual Alms; whence the Feoffers or Givers cannot demand any terrestrial Service, so long as the Lands, &c. remain in the hands of the Feoffees. With this agreeth the *Grand-Custumary of Normandy*, cap. 32. Of this you may read at large, *Bracton*, lib. 2. cap. 5. & 10. See *F. N. B.* fol. 211. and the *New Book of Entries*, verbo *Frank-almoine*. *Britton*, in the forced, makes another kind of this Land, given in Alms, but not in free Alms. As if an Abbot, &c. hold Lands of his Lord for certain Divine-Service to be done, as to sing every Friday a Masse, or do some other thing, and if such Divine-Service be not done, the Lord may distrain; in such case the Abbot ought to do Fealty to the Lord; and therefore it shall not be said a Tenure in *Frank-almoine*, but a Tenure by Divine-Service; for it cannot be *Frank-almoine*, if any certain Service be expressed.

Frank-banke. See *Free-bench*.

Frank-Chafe, Libera Chacea, a Is Liberty of free *Chafe*, whereby all Men having Ground within that compass, are prohibited to cut down wood, &c. without the view of the Forester, though it be in his own *Demesnes*, *Crompt. Jur.* fol. 187.

Frank-fee, Liberum feudum, Is by *Broke*, tit. *Demesne*, num. 32. thus expressed, That which is in the hands of the King or Lord of any Mannor being ancient *Demesne* of the Crown, (viz. the *Demesnes*) is called *Frank-fee*, and that which is in the hands of the Tenant is ancient *Demesne* only. See *Reg. Orig.* fol. 12. whereby that seemeth to be *Frank fee* which a man holds at the Common-Law to himself and his Heirs, and not by such Service as is required in ancient *Demesne*, according to the custom of the Mannor. And again, in the same Book, fol. 14. there is a Note to this effect, That the Lands which were in the hands of King *Edward the Confessor* at the making of *Doomsday-Book*, is ancient *Demesne*, and that all the rest of the Realm is called *Frank-fee*, where-with *Fitzherbert* agrees in his *Nat. Brev.* fol. 161. So that by this rule all the Land in the Realm is either ancient *Demesne* or *Frank fee*. The Author of the *Termes of Law* defines *Frank fee* to be a Tenure in Fee-simple of Lands pleadable at the Common-Law, and not in ancient *Demesne*. *Fachineus*, lib. 7. cap. 39. makes *Feudum francum esse pro quo nullum servitium praestatur Domino*, with whom agrees *Zafius de feudis*, part. 12. saying That therefore it is *Feudum improprium, quia ab omni servitio liberum*.

Frank-serme, Firma Libera, Is Land or Tenement, wherein the nature of *fee* is changed by Feoffment out of Knights-service, for several yearly Services; and whence neither Homage, Wardship, Marriage, nor Relief may be demanded, nor any other Service not contained in the Feoffment, *Britton*, cap. 66. num. 3. See *Fee-serme*.

Frank-sold, Is, where the Lord hath benefit of folding his Tenants Sheep within his

Mannor for the manuring of his Land, *Kel. Rep. fol. 198.* It is a compound irregular out of the French *Franc*, that is, *free*; and the Saxon *fald*, that is, a *fold*. See *Faldage*.

Frank-law *Libera Lex*, See *Crompt. Just. fol. 156.* where you shall find what it is by the contrary; for he that for an Offence, as Conspiracy, &c. loseth his *Frank law*, is said to fall into these Mischiefs; First, That he may never be impanelled upon any Jury or Assise, or otherwise used in testifying any truth. Next, If he have any thing to do in the Kings Court, he must not approach thither in person, but appoint his Attorney. Thirdly His Lands, Goods and Chattels must be seised into the Kings hands; and his Lands must be estreated, his Trees rooted up, and his Body committed to Prison; for this the said Author citeth, *Lib. Affs. fol. 59. Conspiracy, 24 E. 3. fol. 34.* See *Conspiracy*.

Frank-marriage, *Liberum maritragium*, Is a Tenure in tail special, growing from these words in the Gift comprised, *Sciatis &c. me M. H. de W. dedisse & concessisse & presenti Charta mea confirmasse J. A. filio meo & Margeriz uxori ejus, filie veræ T. N. in liberum maritragium unum Mesuagium, &c.* West Symbol. part 1. lib. 2. sect. 303. The effect of which words is, That they shall have the Land to them and the Heirs of their Bodies, and shall do fealty to the Donor till the fourth degree. See *Termes de la Ley, Glanville, lib. 7. cap. 18.* and *Bract. lib. 2. cap. 7. num. 4.* divideth *Maritragium* in *liberum & servitio obligatum*, see *Marriage*. *Fleta* gives this reason why the Heirs do no Service until the fourth Descent, *Ne donatores vel eorum heredes, per homagii receptionem a reversione repellantur.* And why in the fourth Descent, and downward, they shall do Service to the Donor, *Quia in quarto gradu vehementer presumitur, quod terra non est pro defectu heredum Donatoriorum reversura, lib. 3. cap. 11.*

Frank-pledge, *Franci-plegium*, From the French *Frank*, *liber*, and *pledge*, i. *fidejussor*, signifies a *Pledge* or *Surety* for Free-men: For the ancient Custome of Free-men of England, for the preservation of the Publick Peace, was, That every free-born Man at fourteen years of age, after *Bracton* (Religious person, Clerks, Knights, and their eldest Sons excepted) should find Surety for his Truth towards the King and his Subjects, or else be kept in Prison; whereupon a certain number of Neighbours became customably bound one for another, to see each man of their *Pledge* forth-coming at all times, or to answer the Transgression committed, by any broken away: So that whosoever offended, it was forth-withinquired in what *Pledge* he was, and then they of that *Pledge* either brought him forth within 31 dayes to his Answer, or satisfied for his Offence. This was called *Frank-pledge*, and the Circuit thereof *Decenna*, because it commonly consisted of ten Households, and every particular person thus mutually bound for himself and his Neighbours, was called *Decennier*, because he was of one *Decenna* or another. This Custome was so kept, that the Sheriffs at every County-Court did, from time to time, take the Oaths of young Ones, as they attained the age of fourteen years, and see that they comprised in some *Docen*; whereupon

this Branch of the Sheriffs Authority was stiled *Viscus Franci Plegii, View of Frank-pledge.* See the Statute for *View of Frank-pledge*, made 18 E. 2. See also *Decennier, Leet, View of Frank-pledge*, and *Fribergh*. That we borrowed this Custome of the Lombards, manifestly appears in the Second Book of *Feuds*, cap. 53. upon which read *Hotoman, &c.* what Articles were wont to be enquired of in this Court. See in *Hornes Mirrour of Justices*, lib. 1. cap. de la venue des francs pledges; And what these Articles were in former times, see in *Fleta lib. 2. cap. 52.* and 4. par. *Inst. fol. 73.* In an ancient Charge of the *Quest of Wardmote*, in every Ward in London, It is said, *And if there be any person within the Ward that is not under Frank-pledge; that is to say, under Love and Law, &c.*

Free-bench, **Frank-bank**, *Francus bancus*, that is, *sedes libera*, signifies that Estate in Copy-hold Lands, that the Wife being espoused a Virgin hath, after the decease of her Husband, for her Dower, *Kitchin, fol. 102. Bracton, lib. 4. tract. 6. cap. 12. num. 3.* hath these words, *Consuetudo est in partibus illis, quod uxores maritorum defunctorum habeant francum bancum suum de terris socemmanorum & tenent nomine dotis.* *Fitzherbert* calls it a Custome, whereby in certain Cities, the Wife shall have her Husbands whole Lands, &c. for her Dower, *Nat. Brev. fol. 150.* See *Plowden, fol. 411.* In the Case of *Newis*. Of this *Free-bench*, several Mannors have several Customes, as at *East and West Enborne* in the County of *Berks*, If a customary Tenant die, the Widow, shall have her *Free bench* in all his Copy-hold Lands, *dam sola et casta fuerit*; but if she commit Incontinency, she forfeits her Estate: Yet if she will come into the Court riding backward on a black Ram, with his tayl in her hand, and say the words following, the Steward is bound by the Custome to readmit her to her *Free-bench*.

Here I am
Riding upon a black Ram,
Like a Whore as I am;
And for my Crinum Crancum,
Have lost my Binkum Bancum;
And for my Tayles game,
Have done this worldly shame,
Therefore I pray you, Mr. Steward let me have
my Land again.

The like Custome there is in the Mannor of *Torre* in *Devonshire*, and other Parts of the West.

Fredwit. See *Fletwit*.

Free-bord, *Franchbordus*, In some places they claim as a *Free bord*, more or less ground beyond or without the Fence. In *Mon. Ang. 2. par. fol. 241.* It is said to contain two foot and a half, viz. *Et totum boscam vocat. Brendwood cum franchborda, Et duorum pedum & dimid. per circuitum illius bosci, &c.*

Free-Chappel, *Libera Capella*, In the Opinion of some is a *Chappel* founded within a Parish, for the Service of God, by the devotion and liberality of some good Man, over and above the Mother-Church, to which it was free for the Parishioner to come, or not to come, and endowed with Maintenance by the Founder and thereupon called *Free*. Others with more probability say, That those onely are *free Chappels* that are of

the

the Kings foundation, and by him exempted from the Jurisdiction of the Ordinary; but the King may Licence a Subject to found such a Chappell, and by his Charter exempt it from the Diocesan Jurisdiction. See *Reg. Orig. fol. 40, 41.* These Chappells were all given to the King, with Chanteries, 1 E. 6. 14. Free Chappell of St. Martin le Grand, 3 E. 4. cap. 4. and 4 E. 4. cap. 7.

Freehold. See *Fridstoll.*

Freehold, Frank-tenement, Liberrum tenementum, Is that Land or Tenement which a Man holdeth in Fee, Fee-tail, or at the least for term of Life, *Bract. lib. 2. cap. 9.* In the *Termes of the Law* 'tis said, That Free-hold is of two sorts, Free-hold in Deed, and Free-hold in Law: Free hold in Deed, is the real possession of Land or Tenements in Fee, Fee-tail, or for Life. Free-hold in Law, is the Right that a Man hath to such Land or Tenements before his Entry or Seisure. It hath likewise been extended to those Offices which a man holdeth either in Fee, or for term of Life. *Britton* defines it to this effect, Frank-tenement is a possession of the Soyl, or Services issuing out of the Soyl, which a Free-man holdeth in fee to him and his Heirs, or at the least for term of his life, though the Soyl be charged with free Services or other cap. 32. Free hold is sometime taken in opposition to Villenage, *Bract. lib. 4. 37, 38.* *Lambert* in his Explication of Saxon words, verb. *Terra & scripto* saith, That Land in the Saxons time was called either *Bock-land*, that is, holden by Book or Writing; or *Folsland*, that is, holden without Writing. The former he reports was held with far better condition; and by the better sort of Tenants, as Noblemen and Gentlemen, being such as now we call Free-hold. The later was commonly in the possession of Clowns, being that we now call *Ad voluntatem Domini*, At the will of the Lord. The *Register Judicial*, fol. 68. and in divers other places saith, That he which holds Lands upon an Execution of a Statute-Mercant, until he be satisfied the Debt, Tenet ut liberum tenementum sibi et assignatis suis. And fol. 73, the same may be read of a Tenant by Elegit, where the meaning is not, that they be Free-holders, but as Free-holders for their time, that is, until they have gathered Profits to the value of their Debt. Free holders in the ancient Law of Scotland were called *Milites*, *Skene de verbor.* Signif. verb. *Milites.* Doctor and Student, that the possession of Land after the Law of England, is called Frank-tenement or Free-hold, fol. 97. a.

Fraximetus, A Wood of Ashen-Trees, *Doomsday.*

Frenchman. *Francigena,* Was heretofore wont to be used for every Outlandish-man, *Bract. lib. 3. tract. 2. cap. See 15 Englecerey.*

Frendless-man, Was the Saxon word for him that we call an Outlaw, and the reason might be, because upon his exclusion from the Kings Peace and Protection, he was denied all help of friends after certain dayes; Nam *forisfecit amicos*, *Bract. lib. 3. tract. 2. cap. 12. num. 1.* whose words are these, Talem vocant Angli (utlough) & alio nomine antiquitus solet nominari, sc. *Frendless man*, & sic videtur quod forisfecit amicos, & unde si quis talem post Villagariam & expulsionem scienter paverit, receptaverit vel scienter communicaverit aliquo modo, vel receptaverit, vel occultaverit,

eadem pena puniri debet, qua puniretur utlagatus, ita quod careat omnibus bonis suis & vita, nisi Rex ei parcat de sua gratia.

Frendwite vel Infeng, Significat quietantiam prioris prise ratione convivii, *Fleta, lib. 1. cap. 47.*

Fresh Disseisin, Frisca disseisina, Cometh of the French *Fraiz*, i. recens and *disseisir*, a possessione ejicere; It signifies such a Disseisin as a man may seek to defeat of himself, and by his own power, without the help of the King or Judges, *Britton, cap. 5.* and that such disseisin as is not above fifteen dayes old, *Bracton, lib. 4. cap. 5.* whom you may read at large in this matter, concluding that it is arbitrary, and so doth *Britton, cap. 65.* But cap. 43. he seemeth to say, That in one case it is a year. See him also, cap. 44.

Fresh fine, Is that which was levied within a year past, *Westm. 2. cap. 45. Anno 13 E. 1.*

Fresh force, Frisca fortia, Is a force done within forty dayes, as seems by *F. N. B. fol. 7.* For if a man be disseised of any Lands or Tenements within any City or Borough, or deforced from them after the death of his Ancestor, to whom he is Heir, or after the death of his Tenant for life, or in tail; he may within forty dayes after his Title accrued, have a Bill out of the Chancery, to the Mayor, &c. See the rest there, and *Old Nat. Brev. fol. 4.*

Fresh suit, Recens insecutio, Is such a present and earnest following of an Offendor, as never ceaseth from the time of the Offence committed or discovered, until he be apprehended. And the effect of this in the pursuit of a Felon is, that the party pursuing shall have his Goods again, whereas otherwise they are the Kings. Of this see *Stamf. pl. cor. lib. 3. cap. 10. & 12.* where you shall find handled at large what suit is to be accounted fresh, and what not. And the same Author in his First Book, cap. 27. saith, That fresh suit may continue for seven years. See *Cokes Rep. lib. 3. Ridgewayes Case.* Fresh suit seemeth to be either within the View or without; For *Manwood* saith, That upon fresh suit within the View, Trespassers in the Forest may be attached by the Officers pursuing them, though without the limits and bounds of the Forest, cap. 19. per totum.

Friborgh, alias Fridburgh, alias Frithburg, Frideburgum, Cometh of two Saxon words, viz. *Freo*, i. liber, and *borgh* fidejusor, or of *frid* Pax, and *Borghe* Sponsor; this is called after the French *Frank pledge*, the one being in use in the Saxons time, the other since the Conquest: Wherefore, for the understanding of this, read *Frank-pledge*. That it is all one thing, appears by *Lambert* in his Explication of Saxon words, verbo *Centuria*. And again, in the Law of King *Edw.* set out by him in these words, *Præterea est quedam summa & maxima securitas, per quam omnes statu firmissimo sustinentur, viz. ut unusquisq; stabiliat se sub fidejussionis securitate quam Angli vocant Freoborghes. Soli tamen Eboracenses dicant eandem Tienmannatate quod sonat Latine decem hominum numerum. Hæc securitas hoc modo fæbat, quod de omnibus villis totius Regni sub decemali fidejussione debebant esse univervi; ita quod si unus ex decem, forisfecerit, novem ad rectum cum haberent, quod si aufugeret daretur lege terminus ei 31. dierum,*

ut *questus interim & inventus ad iustitiam Regni adduceretur, &c.* As in the Book *Bracton* maketh mention of *Fridburgum*, lib. 3. tract. 2. cap. 10. in these words, *Archiepiscopi, Episcopi, Comites et Barones, et omnes qui habent Soc et Sak, Tolet Team, et huiusmodi libertates milites suos & proprios servientes, &c. sub suo Fridburgo habere debent Item et ipsi suos Armigeros & alios sibi servientes: Quod si cui forisfecerint, ipsi Domini sui habeant eos ad restum etsi non habuerint, solvant pro eis forisfacturam, et sic observandum erit de omnibus aliis qui de alicujus manupastu.* Out of which words may be gathered the reason why great men were not combined in any ordinary *Dorein*, viz. because they were a sufficient Assurance for themselves and their Servants, no less than the ten were one for another in ordinary *Doreins*. See *Frankpledge*, and *Skenet de verbor.* Signif. verb. *Frieborge*. *Fleta* writes this word *Fritthorpe*, and useth it for the principal man, or at least for a man of every *Dorein*. *Fritthorpe* (saith he) est laudabilis homo testimonii liber vel servus, &c. lib. 1. cap. 47. sect. *Fritthorpe*. See *Hoveden*, part. poster. annal. suor. in *Henrico 2.* fol. 345.

Fridstoll & Fritthow. From the Saxon *Fird*, signifying *Peace*, and *Stoll* a seat or stool; so that it is a Seat, or place of Peace. In the Charter of Immunities granted to the Church of Saint Peter in *York*, confirmed Anno 5 H. 7. *Firdstoll* is expounded *Cathedra pacis et quietudinis*. There were many of these in England, but the most famous was at *Beverly*, bearing this Inscription, *Hec sedes lapidea Freedstoll dicitur, id est, Pacis Cathedra, ad quam reus fugiendo perveniens omnimodum habet securitatem, Camd.*

Frier, Fraier. In French *Frere*, is an Order of Religious persons, of which these are the four principal Branches, viz. 1. *Minors*, *Grey-friers* or *Franciscans*. 2. *Augustines*. 3. *Dominicans* or *Black-friers*. And 4. *White-friers* or *Carmelites*, of which the rest descend. See in *Zachius de Rep. Eccl.* pag. 380. Vide *Linwood* titulo de Relig. domibus, cap. 3. verb. *Sancti Augustin.*

Frier observant, Frater observans, Is an Order of *Franciscans*, which are *Minors*, as well the *Observants* as the *Conventuals* and *Capuchines*, *Zach. de Rep. Eccl.* tract. de Regular, cap. 12. These we find mentioned An. 25 H. 8. cap. 12. They be called *Observants* because they are not combined together in any *Cloyster*, *Convent* or *Corporation*, as the *Conventuals* are; but only tie themselves to observe the Rites of their Order more strictly than the *Conventuals* do; and upon a singularity of Zeal separate themselves from them, living in certain places, and Companies of their own chusing: And of these you may read *Hospinian*, de Orig. & Progress. *Monachatus*, fol. 878. cap. 38.

Friperie. Is deduced from the French *Friper*, interpolator, one that scoureth up and cleanseth old Apparel to sell again: It is used for a kind of Broker, Anno 1 Jac. cap. 21.

Fritthorpe. See *Freeborgh*.

Fritthrech, Pacis violatio, The breaking of the Peace, *Leg. Ethelredi*, cap. 6. See *Frybe*.

Fritthmore per Fritthmote, J. Stanley Ann. clamat capere annuatim de villa de Otton quae est infra feudum et *Mallurium* de Aldford infra forestaria de la mer. 10. fol. quos *Comites* *cestria* ante confessionem curiae praedicta solebant capere. Pl. in Itin. apud *Cestr.* 14 H. 7.

Fritthloken, Fritthloere & Fritthloke, Signifies surety of Defence, *Tuenda pacis Jurisdictio*. It seemeth to be drawn from these two words, *Fritth* or *frid*, *pax*, and *locus libertas*. *Fleta* saith, It is *Libertas habendi Franci plegii*, or *locus immunitatis*.

Frobozg or Froburgh. See *Friburgh* and *Frankpledge*.

Fromortell, But more truly *Freemortell*, Is an Immunity or Freedom granted for Murder or Man-slaughter.

Frumgplb, Is an old Saxon word, which signifies the first payment made to the Kindred of a slain person, in Recompence of his Murder, *Leg. Edmundi*, cap. ultimo.

Frumstol, Sedes primaria, The chief Seat or Mansion-House, *Leg. Ina Reg.* cap. 38.

Frustrura, A demolishing, or pulling down, --- *Dedi eis novam garbam tam in Frustruris, quae de novo sunt*, in, &c. *Mon. Ang.* 2. par. fol. 394.

Frustrum terrae, Or, according to *Spelman* *Frustrum*, A small piece of Land, *Residuum quiddam praeter acras numeratas vel campum mensuratum. Cum in Doomsday Frustrum terrae accipitur pro ampla portione seorsum a campo villa, Manerio jacenti. Doomsday, tit. Hantise. Rex Abedestone; In insula habet Rex unum Frustrum terrae unde exemit 61 Vomeris.*

Fryth, Co. on *Lit.* fol. 5. Expounds it a Plain between two Woods, and so is it used in *Doomsday*; *Chaucer* uses it for a Wood. *Camden* in his *Brit.* for an Arm of the Sea, or great River, and so we frequently use it at this day. *Smith* (in his *Englands Improvement*) makes it signifie all *Hedgewood*, except *Thorns*. It is a task to reconcile this, when they all disagree with the Saxon, with whom we know *frid* or *fritth* signifies Peace.

Fuage or Focage, Derived a *foco*: In the Reign of *Edward the Third*, the black Prince of *Wales* having *Acquitayne* granted him, laid an Imposition of *Fuage* or *Focage* upon the Subjects of that Dukedome, viz. twelve pence for every Fire, call'd *Herb-Money*, *Rot. Parl.* 25 E. 3. 'Tis probable our *Herb-Money* took its original from hence.

Fuer, Fuga, From the French *Fuir*, *fugere*; Though it be a Verb, yet it is used substantively, and is two-fold; *Fuer in fait* (in *facto*) when a man doth apparently and corporally fly, and *fuer in ley* (in *lege*) when being called in the County he appeareth not, until he be Outlawed; for this is flight in interpretation of Law, *Stamf. pl. cor. lib.* 3. cap. 22.

Fugacia, Signifies a Chase, and is all one with *Chasea*: *Charta Matildis Imperatricis Miloni de Glouc.*

Fugitives Goods, Bona fugitivorum, Are the proper Goods of him that flyeth upon Felony, which after the flight lawfully found, do belong to the King, or Lord of the Mannor, *Co. vol. 6.* fol. 109. See *Walf.*

Fumage, Fumagium, Dung, or manuring with Dung, *Et sint quieti de fumagio & Maremis cariendo, &c. carta R. 2. Privat. de Hertland, Pat. 5 E. 4. part 3. m. 13.*

Fumthores or Fumadoes, 14 Car. 2. cap. 31, Our *Pilchards* garbaged, salted, hanged in

in the Smoke, and pressed, are so called in *Italy* and *Spain*, whither they are carried in great numbers.

Furca, (*Et fossa*) The Gallows and the Pit; In ancient privileges it signified a Jurisdiction of punishing Felons, that is, Men by hanging, Women by drowning. *Scene de verbor.* Signif. verb. Fossa, hath these words concerning this matter, *Erelio furcarum est meri imperii. Et alta Justitia, Et significat. Dominium aeris, quia suffragi pendunt in aere: Et merum Imperium consistit in quatuor, sicut sunt quatuor elementa: In aere ut hi qui suspenduntur, In igne quando quis comburitur propter malefictum. In aqua quando quis ponitur in calco Et in mare projicitur ut parricida, vel in amnem immergitur ut Femina furti damnata. In terra cum quis decapitatur Et in terram prostermitur.*

Frustetum, A Wood, or Wood-ground, *Domesday.*

Furlong, *Ferlingum terra*, Is a quantity of Ground containing in most places forty Poles, every Pole sixteen foot and a half in length; eight of which furlongs make a Mile, *Anno 35 E. 1. cap. 6.* It is otherwise the eight part of an Acre; yet an old Book printed in *Henry the Eighth's* time makes 600 foot, by fivefore to the hundred, a furlong, see *Acre*. In the former signification, the Romans call it *Stadium*, in the latter *Jugerum*: A Pole is in some places called a *Perch*, and differs in length according to the Custom of the Country. See *Perch*.

Furnage, *Furnagium*, Est tributum quod Domino furni a sectatoribus penditur ob ignem furni. For in many places the Tenants are bound to bake their Bread in the Lords Oven. *Et etiam lucrum seu emolumentum quod Pistori conceditur in Pistoris sumptus et mercedem et tunc potest Pistor de quolibet quarterio frumenti lucrare 4. Den. Et furfur et duas panes ad furnagium Assis panis et cervisia, 51 H. 3. See *Fornagium*.*

Furre, *Furruva*, Cometh from the French *Fourrer*, i. pelliculare, to line with Skins. The Statute 24 H. 8. cap. 13. mentions divers, as *Sable*, which is a rich *Furre*, of colour between black and brown, being the Skin of a Beast called a *Sable*, of bigness between a *Pole-cat*; and an ordinary *Cat*, and shaped like a *Pole-cat*; bred in *Russia*, but the most and best in *Tartary*. *Lutrenis* is the Skin of a Beast so called, being near the bigness of a *Woolf*, of colour between red and brown, something mailed like a *Cat*, and mingled with black spots; bred in *Mosovia* and *Russia*, and is a very rich *Furre*. *Geme* is the Skin of a Beast so called, of bigness between a *Cat* & a *Weezle*, mailed like a *Cat*, and of the nature of a *Cat*; bred in *Spain*, where of there be two kinds, black and gray, & the black the more pretious *Furre*, having black spots upon it hardly to be seen. *Fymis* is of fashion like the *Sable*, bred in *France* for the most part; the top of the *Furre* is black, and the Ground whitish. *Marmosus* is a Beast very like the *Sable*, the Skin something courser, it liveth in all Countries that be not too cold, as *England*, *Ireland*, &c. the best be in *Ireland*. *Minias* is nothing but the Belies of Squirrels as some say; as others, it is a little Vermine, like unto a *Weezle*, Milk-white, and brought from *Mosovia*. *Pitch* is that which we otherwise call the *Pole-cat* here in *England*. *Shank* be the Skin of the *Shankes* or *Leg* of a

kind of *Wid*, which beareth the *Furze* that we call *Budge*. *Calaber* is a little Beast, about the bigness of a *Squirrel*, of colour gray, and bred especially in *High Germany*.

Justie, A kind of wood used by Dyers, and brought from *Barbadoes*, *Jamaica*, &c. spoken of in the Stat. 12 Geo. 2. cap. 18.

G.

Gabel, *Gabella*, *Gabellum*, In French *Gabelle*, that is, *Vestigal*, hath the same signification among our old Writers that *Gabelle* hath in France: For Mr. Camden in his *Brit.* pag. 213. speaking of *Wallingford*, hath these words, *Continebat 276 Hages, i. domos redditores novem libras de Gablo.* And pag. 228. of *Oxford* these, *Hanc urbem redderet pro folemis & gablo & aliis consuetudinibus, per annum Regi quidem viginti libras et sex sextarios mellis, comiti vero Algaro decem libras.* *Gabella*, as *Cassanens* defines it, *De cons. Burgund.* pag. 119. *Est vectigal quod solvitur pro bonis mobilibus, id est, pro in qua vehuntur, distinguishing it from tributum, quia tributum est proprium quod fisco vel Principi solvitur pro rebus immobilibus.* The Lord Coke, in his Comment upon *Littletton*, faith thus, *lib. 2. cap. 12. fol. 213.* Here note, for the better understanding of ancient Records, Statutes, Charters, &c. That *Gabel* or *Gavel*, *Gabellum*, *Gabellum*, *Gabellatum*, *Gabellatum* and *Gavillettum*, do signifie a Rent, Custome, Duty or Service, yielded or done to the King, or any other Lord. But that *Gabella* did as well extend to Money as to other things in kind, is very plain by that Record in *Domesday-Book* in *Windsor* in *Berkshire*, where 'tis said, *Rex Willielmus tenet Windsores, in Dominio Rex Edw. tenuit ibi xx. hide, &c. Et adhuc sunt in villa C. Hage V. minus; ex his sunt xxvi. quiete de Gablo & de aliis excenti xxx. solidi.* And lastly, In the same Book in *Somersetshire*, it is thus expressed under the Title of *Terra Regis* (which observe) *Rex tenet cedre* (I suppose it is that *Cheddar*, so famous for its Cheese) *Rex Edw. tenuit, nunquam Geldavit, nec fecit quot hida sunt ibi, &c. in Dominio, &c. xx. Bord cum xvii. Car. & vii. Gablatores redd. xvii.* These seven *Gablatores* did pay seventeen shillings, and from their paying of Rent were termed *Gablatores*: To me it seems probable, That this *Gabellum* is to be distinguished from a Rent or Payment made upon Contract or Bargain, and have relation to such a one as was imposed by the Power and Will of the Lord, And these different sorts of Payments are passed in *Domesday-Book* under several expressions, according to the nature of them; where sometimes it is written, That one *Reddit* to such a one so much, without any other addition; and this, I believe, was Rent upon Agreement and Contract: Another *Reddit de consuetudine* so much, and a third *Reddit de Gablo* so much.

Gafalgyls, Is a Saxon word, signifying the payment or rendering of Tribute or Custome, also it sometimes denotes *Usury*.

Gafol-laud, alim *Gafol-laud*, *Terra consuetudinis*, Land liable to Tribute or Tax. The Saxon Dictionary calls it *irrend Land*. See *Gavel*.

II.

Gabel

Gage, Vadium, Signifies a Pawn or Pledge, and is derived from the French *Gager*, that is, *pignori dare*. Glanville, lib. 10. cap. 6. saith *Quandog, rei mobiles ponuntur in vadium, quandog, res immobiles*; and a little after that thus, *Invadiatur res quandog, ad terminum, quandog, sine termino; Item quandog, invadiatur res aliqua in mortuo vadio, quandog, non*. And from that Chapter to the end of the twelfth in the same Book, he handleth this one thing; though the word *Gage* be retained as it is a Substantive, yet as it is a Verb the use hath turned the *G.* into a *W.* so as it is oftner written *Wage*, as to *wage deliverance*, that is, to give security that a thing shall be deliver'd: For if he that distrained, being sued, have not delivered the Cattel that were distrained, then he shall not only avow the Distress, but *gager deliverance*, that is, put in Sureties that he will deliver the Cattel distrained, F.N.B. fol. 74. & 67. yet in some cases he shall not be tyed to his Security, as if the Cattel dyed in the Pound, Kitchin, fol. 145. Or if he claim a propriety in the Cattel sued for, *Termes de la Ley*. Towage Law, see *Law*; and also see *Mortgage*.

Gager deliverance. See *Gage*.

Gayle. See *Gad*.

Gager del Ley, See *Wage*, and *wager of Law*.

Gagers, See *Gawgers*. This word is mentioned in 12 Car. 2. cap. 4.

Gaynage, Wainagium *Plaustrum apparatus*, is near the French *Gaignage*, *lucrum*, and signifieth in our Law the profit most properly that comes by the Tillage of Land, held by the baser kind of Soke-men or Villains. *Bracton*, lib. 1. cap. 9. speaking of such, hath these words, *Et in hoc legem habet contra Dominos &c. ut si eos destruunt, quod saluum non possit eis esse Wainagium suum*. And again, lib. 3. tra. 2. cap. 1. *Miles et liber homo non amerciaabitur nisi secundum modum delicti, secundum quod delictum fuit magnum vel parvum et salvo contentemeto suo: Mercator non nisi salvo Mercatoris suo, et Villanus non nisi salvo wainagio suo*. This in *Westm.* 1. cap. 6. Anno 3 E. 1. is called *Gaynare*, and again, cap. 17. And in *Magna Charta*, cap. 14. it is called *Gaignage*. In the *Old. Nat. Brev. fol. 117.* it is termed *Gainor*, in these words, *The writ of Aiel was præcipe, &c. quod reddat unam bovatum terræ et unam bovatum marisci*. And the Writ was abated, for that the Overage is alwayes of a thing that lyeth in *Gainor*. This word was used onely concerning Arable Land, because they that had it in Occupation, had nothing of it, but the Profit and Fruit raised by their own spain towards their Subsistence, nor any other Title, but at the Lords Will. *Gainor*, again in the same Book fol. 12. Is used for a Soke-man, that hath such Land in his Occupation. In the 32. Chapter of the *Grand Custumary of Normandy*, *Geigneurs* be *Agricolæ, qui terras elemosinatas possident*. And *Britton* useth *Gainor* for to Plow or Till, fol. 42. & 69. *West. Symbol. part. 2. tit. Recoveries, sect. 3.* hath these words, *A Præcipe quod reddat lyeth not in Bovate Marisci*, 13 E. 3. fol. 3. nor de *selione terræ*, because of the incertainty; for a *selion*, is a piece of Land sometime containing an Acre, sometimes half an Acre, sometimes more, sometimes less; It lyeth not of a Garden, Cottage or Croft, 14 Ab. 13. 8 H. 6. 3. 22. Ed. 4. 13. de Vir-

gata terra, &c. For they be not in Demesne, but in *Gain*, &c. Lastly, In the Statute of Distresses in the Exchequer, Anno 51 H. 3. are these words, No man of Religion, or other, shall be distrained by his Beasts that gain the Land. See *Wainage*.

Gainery, Tillage or Agriculture, Or the Profit accrewing thereby, or of the Beasts used therein.

Gainure, Westm. 1. cap. 6. & 17. Signifies the same with *gainery*.

Galege, Galica, Seemeth to come of the French *Galloches*, which signifieth a kind of Shooe worn by the *Gauls* in dirty weather; and at present the signification differs not much among us. The word is used Anno 4 E. 4. cap. 7. And 14 & 15 H. 8. cap. 9. where it is written plainly *Galloches*.

Galingal, Is a Medicinal Herb, the nature and diversity whereof is expressed in *Gerards Herbal*, lib. cap. 22. The root of this is mentioned for a Drugg to be garbled, 1 Jac. 19.

Gallehalpens, Were a kind of Coyn which with *Saxons* and *Dutchmen* were forbidden by the Statute of 3 H. 5. 1.

Gallochers. See *Galege*.

Galls, Be a kind of hard and round Fruit like a Nut, growing upon the Tree, in Latine called *Galla*: The divers kinds and uses whereof *Gerard* expresseth in his *Herbal*. lib. 3. cap. 34. This is a Drug to be garbled, 1 Jac. 19.

Gang-week. See *Rogation-week*.

Geol, Gaola, Cometh of the French *Geol*, i. *Cavenda*, A Cage for Birds, but is metaphorically used for a Prison; thence cometh the Master of a Prison to be called *Geoler* or *Gayler*.

Garbe, Cometh of the French word *Garbe* alias *Gerbe*, i. *fascis*: It signifies with us a bundle or sheaf of Corn, *Charta de Foresta*, cap. 7. And *Garba sagittarum* is a sheaf of Arrows, containing twenty four, otherwayes called *Shaffa sagittarum*. *Shene de verbor. Signif. verb. Garba*.

Garbles, Anno 21 Jac. cap. 19. Signifies the Dust, Soyl, or Uncleaness that is severed from Spice, Drugs, &c.

Garbling of Bowstaves, Anno 1 R. 3. cap. 11. Is the sorting or culling out the good from the bad. As *garbling* of Spice is nothing but to purifie it from the dross and dust that is mixed with it. It may seem to proceed from the Italian *Garbo*, that is, fineness, neatness; thence probably we say, when we see a man in neat habit, *He is in a handsome Garbe*.

Garbler of Spices, 21 Jac. cap. 9. Is an Officer of great Antiquity in the City of London, who may enter into any Shop, Ware-house, &c. to view and search Drugs, Spices, &c. and to garble the same, and make them clean.

Garderobe. See *Wardrobe*, and 1. Inst. fol. 255.

Garb, Custodia, Signifieth a custody or care of Defence, but hath divers significations, sometimes applyed to those that attend upon the safety of the Prince, called the *Life-guard*, or *Yeomen of the guard*; sometimes to such as have the Education of Children under Age, or of an Idiot, sometimes to a Writ touching Wardship: Which Writs are of three sorts, one called a *Writ of Gard of Ward*, in French *Droit de gard*, F.N.B. fol. 139.

The

The second is *Eſtment de garde*, Idem. fol. eod. The third is *Raviſhment de gard*, Idem. fol. 140. See *Gardeyne*. See *Ward*.

Gardeyne or Guardian, Custos, Cometh of the French *Gardien*, and yet the German word *Warden* is nearer to it. It ſignifies generally him that hath the charge or cuſtody of any perſon or thing; but more notoriously him that hath the Education or Protection of ſuch People, as are not of ſufficient Diſcretion to guide themſelves and their own Affairs, as Children and Ideots, being indeed as largely extended as *Tutor* and *Curator* among the *Civilians*; for whereas *Tutor* is he that hath the government of a Youth, until he come to fourteen years of Age, And *Curator* he that hath the diſpoſition and ordering of his Eſtate afterwards, until he attain to the Age of five and twenty years; or that hath the charge of a frantick perſon during his Lunacy, we uſe onely *Guardian* for both theſe: And for the better underſtanding of the Law in this point, we are to obſerve, That a *Tutor* is either *Teſtamentarius*, or a *Prætor datus ex lege Atilia*; or laſtly, *Legitimus*. So we have three ſorts of *Guardians* in England, one ordained by the Father in his laſt Will, another appointed by the Judge, the third caſt upon the Minor by the Law and Cuſtome of the Land: Touching the firſt, A man having Goods or Chattels, may appoint a *Guardian* to the Body or Perſon of his Child, by his laſt Will and Teſtament, until he come to the Age of fourteen years, and ſo the diſpoſing and ordering his Eſtate ſo long as he thinks meet, which is commonly to one and twenty years of Age. The ſame he may do of Lands not holden in *Capite*, or by Knights-ſervice: But the ancient Law in this caſe is very much altered by the Statute of 12 Car. 2. cap. 24. which, in all caſes, gives the Father power to appoint a *Guardian* for his Child; But if the Father order no *Guardian* to his Child, the Ordinary may appoint one to manage his Goods and Chattels, till the Age of fourteen years, at which time he may chooſe him another *Guardian*, accordingly as by the Civil-Law he may his *Tutor*; for we all hold one Rule with the *Civilians* in this caſe, and that is *Invito Curator non datur*. And for his Lands the next of Kin on that ſide, by which the Land cometh not, ſhall be *Guardian*, and was heretofore called *Guardian in Socage*. See more of the old Law in this caſe, 28 E. 1. Stat. 1. And *Forfeſuit de laudibus legum*, Ang. cap. 44. *Stamf. Prærog.* cap. 1. *Old Nat. Brev.* fol. 94. And *Skene de uxor.* Signif. verbo *Varda*, from whom you may learn great affinity, and yet ſome difference between the Law of Scotland and Ours in this point.

Guardia, Is a word uſed among the *Feudſti* for the Latine *Cuſtodia*, & *Guardianus* ſeu *guardio*, dicitur ille, cui *cuſtodia commiſſa eſt*, Lib. *Feudor.* 1. tit. 2. & 11.

Gardeyne or Guardian of the Spiritualities, *Cuſtos Spiritualium vel Spiritualitatis*, Is he to whom the Spiritual Jurisdiction of any Dioceſs is committed, during the vacancy of the See 25 H. 8. 21. And the *Guardian of the Spiritualities* may either be *Guardian in Law*, or *Jure Magiſtratus*, as the Archbiſhop is of any Dioceſs within his Province; or *Guardian* by delegation, as he to whom the Archbiſhop or

Vicar-General doth for the time depute, 13 *Eliz.* cap. 12.

Gardeyne or Guardian of the Peace, Cuſtos pacis. See *Conſervator of the Peace*.

Gardeyne or Guardian, or rather Warden of the Cinque Ports, *Gardias nū quinq; portuum*, Is a principal Magiſtrate that hath the Jurisdiction of thoſe Havens in the Eaſt-part of England, which are commonly called *The Cinque Ports*; that is, the five Ports or Havens, who there hath all that Jurisdiction that the Lord High Admiral of England hath in places not exempt. And the reaſon why one Magiſtrate was assigned to ſo few Havens, was, becauſe they, in reſpect of their ſituation anciently, required a more vigilant care than other Havens, being nearer, and more obvious to Enemies, by the narrowneſs of the Sea in thoſe parts. *Cambden* in his *Brit.* pag. 238. ſaith, That the Romans, after they had ſettled themſelves and their Empire here in England, appointed a Magiſtrate or Governor over thoſe Eaſtern parts, whom they called *Comitem litoris Saxonici per Britanniam*, having another that did bear the ſame Title on the oppoſite part of the Sea, whoſe Office was to fortiſie and furniſh the Sea-Coaſts with Munition againſt the Incuſſions and Robberies of the Barbarians; and farther ſignifieth his Opinion, That our *Warden of the Cinque Ports* was firſt erected among us, in imitation of that Roman Policy. See *Cinque Ports*.

Gardeyne de L' eſtemary, Anno 17 Car. 1. cap. 15. *Warden of the Stanneries*.

Gardeyne del Egliſh, In English *Church-wardens*, Who are Officers choſen in every Pariſh, to have the care and cuſtody of the Church Goods; and they may have an Action for the Goods of the Church, and divers other things they may do for the benefit of the Church. And by 43 *Eliz.* cap. 2. They are to joyn with the Overſeers for the making of Rates, and other Proviſion for the Poor of the Pariſh.

Gart, Anno 31 E. 3. cap. 8. Is a courſe Wooll ſul of Hairs, ſuch as groweth about the Pezzle or ſhanks of Sheep.

Gariofilli, But more truly *Garyophylli*, Is that ſort of Spice we call *Cloves*. There is a reſervation in a Charter of *Hugh de Wygton*, of the Priory of *Leominſter*, Anno 1283. in theſe words, *Salva hereditibus meis poſt deceſſum meum uno clavo Gariofil. in præd. feſto ſancti Mich. pro omni ſervitio ſeculari*.

Garniſh, As to *garniſh* the Heir, that is, to warn the Heir, 27 *Eliz.* cap. 3.

Garniſhee, Is taken for the Party in whoſe hands Money is attached, within the Liberties of the City of London, ſo uſed in the Sheriff of London Court, becauſe he has had *garniſhment* or warning not to pay the Money, but to appear and answer to the Plaintiff Creditors Suit.

Garniſhment, Cometh of the French *Garnir*, i. *inſtruer*, and in a legal ſenſe intends a warning given to one for his Appearance, for the better furniſhing of the Cauſe and Court. For example, One iſſued for the Detinue of certain Evidences and Charters, and ſaith, That the Evidences were delivered to him not onely by the Plaintiff, but another alſo, and therefore prayeth, that

that that other may be warned to plead with the Plaintiff, whether the said Conditions be performed, yea or no; And in this Petition he is said to pray *Garnishment*, *New Book of Entries*, fol. 211. col. 3. and *Termes de la Ley*, *Crompt. Jur.* fol. 211. Which may be interpreted either warning of that other, or else furnishing of the Court with Parties sufficient thoroughly to determine the Cause, because until he appear and joyn, the Defendant is, as it were, out of the Court, *F. N. B.* fol. 106. and the Court is not provided of all Parties to the Action. With this agrees *Britton*, cap. 28. where he saith, That Contracts, some be naked and *sans garnement*, and some furnished, or (to use the liberal signification of the word) apparelled; but a naked Contract, *Nudum Pactum*, giveth no Action. And therefore it is necessary or needful, that every Obligation be apparelled, which ought to be with these five sorts of *Garnements*, &c. Howbeit it is generally used for a warning in many places, particularly in *Kittibin*, fol. 6. *Garnisher le Court*, is to warn the Court; and reasonable *garnishments* in the same place intends reasonable warning, and again, fol. 283. and many other Authors. And in the Stat. 27. *Edw.* cap. 3. upon a *Garnishment*, or two *Nicholls* returned, &c. But this may well be thought a *Metonymy* of the effect, because by the warning of Parties, the Court is furnished and adorned.

Garranty. See *Warranty*.

Gartumme, A Fine or Amerciament. See *Doomsday*; 'Tis written in *Spelman Gloss. Gefuma*.

Garter, *Garterium*, In French *Jarrier*, i. *Periculis*; signifies with us both in divers Statutes and otherwise, one especial Garter, being the honourable, Ensign of a great and noble Society of Knights, called *Knights of the Garter*, and this is *car' Goylus*, as being of all others the most excellent. This high Order, as appeareth by Mr. *Camden* 211. and many others, was first instituted by that famous King *Edward the Third*, upon good success in a Skirmish, wherein the Kings Garter (as it is said) was used for a Token: 'Tis true, *Polydore Virg.* gives it a more slight Original, but his grounds, by his own confession, grew from the Vulgar Opinion, however take it as it is. *Edward the Third*, King of *England* (sayes he) after he had obtained many great Victories, the Kings of *France* and *Scotland* being both Prisoners in the Tower of *London* at one time: King *Henry of Castile*, the Bastard expelled, and *Don Pedro* restored by the Prince of *Wales*, did, upon no weighty occasion, first erect this Order, Anno 1350. viz. He dancing with the Queen, and other Ladies of the Court, took up a Garter that happened to fall from one of them, whereat some of the Lords smiling, the King said, That ere it were long he would make that Garter to be of high Reputation, and shortly after instituted this Order of the *Blue Garter*, which every Companion of the Order is bound daily to wear, being richly deckt with Gold and precious stones, and having these words fixt on it, *HONI SOIT QUI MAL Y PENSE*, which is commonly thus interpreted, *Evil to him that evil thinketh*, or rather thus, *To him be it that evil thinketh*, Ferne in his *Glory of Generosity*, fol. 120. agrees with *Camden*, and more particularly sets down the

Victories by which this Order was occasioned. We will not (it being none of our Work) insist upon the cause of its beginning, [but leave you for the search thereof to an Ingenious and most Laborious piece of Work concerning this matter, given to the World by *Elias Ashmole* Esquire,] but how or whatever the beginning was, the Order is inferior to none in the World, consisting of 26 Martial and Heroical Nobles, whereof the King of *England* is the Sovereign, and the rest be either Nobles of the Realm, or Princes of other Countries, Friends and Allies of this Kingdom: The Honors being such, as Emperors and Kings of other Nations have desired, and thankfully accepted. He that will read more, let him converse with Mr. *Camden*, *Polidore*, *Ferne*, and the foresaid Mr. *Ashmole* Books. The Ceremonies of the Chapter proceeding to Election, of the Investiture and Robes, Installation, and now with all other Observations. See Mr. *Segars* Honor, *Military and Civil*, lib. 2. cap. 9. fol. 65. and the same Mr. *Ashmole*. Garter also signifieth the Principal King of Arms among our English Heralds, created by King *Henry the Fifth*, *Stow*, pag. 584. and mentioned 14 *Car.* 2. cap. 33. See *Herald*.

Garth, Signifies a little Backside or Close in the North of *England*, Also a Dam or Wear in a River, for the catching of Fish, vulgarly call'd a *Fishgarth*. It seems to be an ancient British word, for *Gardd* in that Language signifies Garden.

Garthman, 13 *R. 2. Stat.* 1. cap. 19. & 17. *R. 2. cap.* 9. It is Ordained, That no Fisher or *Garthman* shall use any Nets or Engines to destroy the Fry of Fish, &c. whereby it seems to intend one that owns an open Wear where Fish are caught: We may haply derive it from the Scotch word *Gart*, that signifies compelled or enforced, because the Fish are forced by the Wear to pass in at a Loop, where they are caught.

Gavel, Signifies Tribute, Toll, Custome, yearly Rent, Payment or Revenue; Of which we had of old several kinds, *Gavel-Corn*, *Gavel-Malt*, *Oat-gavel*, *Gavel-Fodder*, as you may read in Mr. *Feb. Phillips* Book, titled *The Mistaken Recompence*, fol. 39, 40. And *Taylor's History of Gavel-kind*, pag. 26, 27. & 102.

Gavellet, Is a special and ancient kind of cessavit used in *Kent*, where the Custome of *Gavel-kind* continueth, whereby the Tenant shall forfeit his Lands and Tenements to the Lord, of whom he holdeth, if he with-draw from him his due Rent and Services, which is done after this manner. If any Tenant in *Gavel-kind* with-hold his Rents and Services, let the Lord, seek by the Award of his Court from three weeks to three weeks, to find some Distress upon the Tenement until the fourth Court, alwayes with Witneses and if within that time he can find no Distress on that Tenement, whereby he may have Justice of his Tenant, then at the fourth Court let it be awarded, that he take that Tenement into his Hand in name of a Distress, as if it were an Oxe or a Cow, and let him keep it a year and a day in his Hand without manuring: In which time, if the Tenant come and pay his Arrearages, and make him reasonable amends, let him re-enjoy it; but if he come not in that time, then let the Lord go to the next County-Court, with his Witneses of his

his own Court, and pronounce there his Process; and by the Award of his Court (after the County-Court holden) he shall enter and manure those Lands and Tenements as his own; and if the Tenant come afterwards, and will re-have his Tenements, and hold them as he did before, let him make Agreement with the Lord according as it is anciently said.

Nighefub yeld, and Nighefub geld.
Let him nine times pay, and nine times repay.

Hath he not since any thing given? nor hath he not any thing since paid? let him pay v. lib. for his Error, before he become Tenant or Holder again. See hereof 10 H. 3. Fitz. cessavit. 60. and the Statute of Gavels, where it appeareth to be a Writ used in the Husting at London. And Fleet says, It is used in other Liberties, lib. cap. 55. In the Collection of Statutes, London 2. Is matter much tending to this purpose, That by this word Gavels, the Lord shall have the Land for the ceasing of the Tenant. Mr. S. in his 31. page, of the History of Gavel-kind, hath these words, *Et postea per quandam consuetudinem qua vocatur Gavelate, usitatum in comitatu isto (viz. Kancs.) de terra et tenementis de Gavel kind, pro redditibus et serviciis quae a retro fuerint de eisdem, per plures annos, devenerunt eadem terra in manus cujusdam Abbatis, &c.* Now this Consuetudo de Gavelate (as he further adds) was not a Rent or Service, but betokeneth a Rent or Service withheld, denied or detained, causing the forfeiture of the Tenement to the Lord, with which agree the Lord Coke, where he says, *Gavelkind, is as much as to say, to cease, or to let to pay the Rent; Breve de gavelato in London, est, breve de cessavit in Biennium, &c. pro redditu ibidem quia tenementa fuerunt indistingibilia.* So that this Writ lay in London as well as Kent.

Gavel-kind, Is by Mr. Lambert in his Exposition of Saxon words, verbo Terra & scripto, compounded of three Saxon words, *Gyfe, Eal, Cyn*; Omnibus cognatione proximis data. But Verstegan in his Restitution of decayed Intelligence, cap. 3. Calls it *Gavel-kind*, quasi, give all kind, that is, give to each Child his part. But Taylor in his History of Gavel-kind, would derive it from the Brittainish *Gafael*, a Hold or Tenure, and *Cenned* or *Cennedh*, Generatio aut familia, and so *Gavel cennedh* might signifie *Tenura generationis*, pag. 92. & 132. But whatever is the true Etymology, it signifies in Law a Custome, whereby the Land of the Father is equally divided at his death among all his Sons, or the Land of the Brother equally divided at his death among all his Brethren, if he have no Issue of his own *Kitchin*, fol. 102.

*Teutonicis praeiis patrios succedit in agros,
Mascula stirps omnis ne foret ulla potens.*

This Custome is still in force in divers places of England, but especially in Kent; *Uchenfeld*, in Herefordshire, and elsewhere, though with some difference; but by the Statute of 35 H. 8. cap. 26. All Gavel-kind Land in Wales are made descendible to the Heirs, according to the course of the Common-Law. Camden in his Britannia, pag. 239. saith in express words, *Cantiani ea lege Gulielmo Normanno se dediderunt, ut patrias consue-*

tudines illas resingerent, illamque imperiis quam Gavel-kind nominant. Haec terra quae ex nomine descendit liberis masculis et aequis portionibus dividitur vel feminis si masculi non fuerint; additur ut nullum worth the noting, viz. Haec hereditatem cum quintadecim annorum attigerint, advenit, et sine Domini consensu, cuilibet vel dando vel vendendo, alienare licet. Hac filii parentibus facti advenit in 34 annis fundis, &c. It appears by 18 H. 6. cap. 3. that in those dayes there were not above thirty or forty persons in Kent that held by any other Tenure, but it was altered afterwards in much Land in that County, upon the Petition of several Gentlemen there, by a Statute made 31 H. 8. cap. 30. See Lamberts Perambulation of Kent; Sammers Discourse on this Subject, [Taylors History of Gavel-kind.] Vide etiam Termes de Ley, and Gavels. In Mon. Ang. 2. par. fol. 640. you may read thus, --- *Dedit totam terram quam vendidit mihi Michael de Turnham sicut suam liberam Gavellikind & Stoikikind ad fundandum ibi Domum Religiosis, &c.* --- In Gavel-kind, though the Father be hanged, the Son shall inherit; for their Custome is, The Father to the Boughe, the Son to the Plough, Doctor and Student, cap. 10. c. 60. on Lit. lib. 2. cap. 10. fol. 165. and ch. 9. Rep. Skillings Case.

Gavelketter, Sextarius Vestigalis, Is a certain Measure of Rent-Ale; Among the Articles to be charged on the Stewards and Bayliffs of the Church of Canterburie Mannors, this of old was one, *De Gavelketter cujuslibet braciati infra libertatem Maneriorum, viz. unam Lagenam et dimidiam Cervisiae.* We may find it else-where under the name, of *Tolcester* thus, *De Tolcester cervisiae, hoc est de quolibet braciato per unum annum. Lagenam de cervisia,* and is without dispute the same. In lieu of which the Abbot of Abington, of Custome, received that Penny, mentioned by Selden in his Dissertation annexed to Fleta, cap. 8. num. 3. and there (I believe) misprinted *Colcester-peny* for *Tolcester-peny*.

Gawgeon, or Gager, Gaugeator, Comes of the French *Gawchir*, i. in gyrum torquere; and signifies with us an Officer of the Kings, appointed to examine all Tuns, Pipes, Hogheads, Barrels, and Tertia's of Wine, Beer, Ale, Oyl, Honey, Butter, and give them a Mark of Allowance, before they be sold in any place. And because this Mark is a Circle, made with an Iron Instrument for that purpose: It seems that from thence he taketh his Name. Of this Office you may find many Statutes, the first whereof is 27 E. 3. commonly called the Statute of Provision or Purveyors, cap. 8. The others are 4 R. 2. cap. 1. 18 H. 6. 17. 23 H. 6. 16 1 R. 3. 13. 28 H. 8. 14. And lastly, 12 Car. 2. cap. 4.

Gawge-peny, May be thought to be the *Gawgers Fee*, by Anno 23 H. 6. cap. 16.

Geld, Geldum, Among the Saxons signified *pecunia vel tributum*, also the compensation for a Crime: Hence, in our ancient Laws *Wergeld* was used for the value of a Man slain, and *Orgeld* of a Beast. *Et singuliet de Geldis, & Danageldis, & Hornageldis, & Forageldis, & de Blodwita, & Firwita, & Flitwita, & Leirwita & Heinwita, et Fremnesfada, et Werd-peny, et Awer-peny, et Toling-peny,* Charta Rich. 2. Priorat. de Hertlande in Devon, Pat. 5 E. 4. part 3. m. 13. See Gilde.

K k

Geldable.

Geldable. See *Gildable*.

Gemote. Is a Saxon word signifying *Conventus*, an Assembly: 'Tis used in the Laws of Edward the Confessor, cap. 35. for a Court, viz. *Omnis homo pacem habeat eundo ad gemotum & rediens de gemoto, nisi probatus fur fuerit.* See *Motte*.

General Issue. See *Issue*.

Genearb, Villanus, as *Regis Genearb* is the Kings Villain, *Leg. Ine. M. S. cap. 19.*

Generosa, Seems of late to be a good Addition; for if a Gentlewoman be named *Spinster* in any Original Writ, Appeal or Indictment, she may abate, and quash the same, 2. *Inst. fol. 668.*

Genets alias Jenets. See *Ferre*.

Gentleman, Generosus, Is an irregular compound of two Languages, the one from the French *Gentil*, that is, *Honestus*, vel *honesto loco natus*; the other from the Saxon *Mon*, as if you would say, a man well born. The Italian followeth the very word, calling those *Gentil huomini*, whom we call Gentlemen. The Spaniard keepeth the meaning, calling him *Hidalgo* or *Hijo d' algo*, that is, the Son of some Man, or of a Man of Reckoning: The French also call him *Gentil homme*. So that Gentlemen be those, whom their Blood and Race doth make noble and known: In Greek they are *Ευγενεις*, in Latine *Nobiles*, *Smith de Rep. Ang. lib. 1. cap. 20.* Under this Name are comprised all above Yeomen, so that Noblemen be truly called Gentlemen; but by the Course and Custom of England, Nobility is either Major or Minor, the greater contains all the degrees from Knights upward, the lesser, all from Barons downward, *Smith ubi supra, cap. 21.* The reason of the Name may grow from this, that they observe *gentilitatem suam*, that is, the Race and Propagation of their Blood, by giving of Arms, which the common sort neither doth, nor may do; for by the Coat that a Gentleman giveth, he is known to be, or not to be descended from those of his Name, that lived many hundred years since, *Gentiles homines.* See in *Tiraquel de Nobilitate*, cap. 2. pag. 53. *Cicero* in his *Topics* of this matter, speaks thus, *Gentiles sunt qui inter se eodem sunt nomine ab ingenuis oriundi, quorum majorum nemo se servitutem servivit, qui capite non sunt diminuti.* And in the First Book of his *Tus. Quest.* he calleth *Tullus Hostilius*, one of the Kings of Rome, *Gentilem suum.* These words, *gentilis homo*, for a Gentleman, was adjudged a good addition, *Hil. 27 E. 3.* The addition of Knight is ancient, but of Esquire or Gentleman rare before the First of Hen. 5. cap. 5. See 2. *par. Inst. fol. 595. & 667.*

Gersuma, Samptus, In ancient Charters it is used for a Fine or In-come; as *dare in Gersumam.* And *Gersumam capere, de nativa nostra impregnata sine licentia nostra quod dicitur Childwit.* *Mat. Paris* writes it *Gersoma*, and in Scotland they lay *Garsumme*, and in *Doomsday* we find it *Garsumme.* Vide *antea Garsumme*, and *Spelm. Gloss.*

Gesu & fama, Is a Writ, but grown out of use, *Lamb. Eiren. lib. 4. cap. 14. pag. 531.*

Gethbrech. But more truly *Grithbrech*, *Si pacem quis fregerit ante medicos Preses, quod dicunt Gethbrech, emendet Regi decem solidos, Constitut. Canuti de Foresta, cap. 18.* See *Grithbrech*.

Giggemills, Were for the fulling of woollen Cloth, and forbidden, 3. *E. 6. cap. 22.* They were a kind of Fulling-Mills.

Gild alias Geld, 18. *Car. 2. cap. 1.* It is used as a Verb, and as a Substantive also; and as it is a Substantive; it is latined *gilda*, and signifies a Tribute, or sometimes an Amerciament, or thirdly, a Fraternity or Company combined together, with Orders and Laws made among themselves, by the Princes Licence: *Camden* citeth many Antiquities, by which it appears to signify a Tribute or Tax, as *Pag. 135. 139. 159. 168. 178.* *Crompton* in his *Jurisdictiones*, fol. 191. sheweth it to be an Amerciament, as *Footgild*, And fol. 197. he interpreteth it to be a Preatiation within the Forest, in these words, To be quit of all manner of gelds, is to be discharged of all manner of Preatiations, to be made for gathering of sheaves of Corn, of Lambard of Wooll, to the use of the Foresters. *Camden*, pag. 349. dividing *Sussex* into three parts, calleth the first *Geldable*, because Tribute is thence gathered, the second *Libertatem S. Ethelredi*, and the Statute of 27. *E. 3. Stat. 2. cap. 13.* and 11. *H. 7. cap. 9.* use *gildable* in the same sense, and so doth the Stat. 27. *H. 8. cap. 26.* From hence *Lamberd* is perswaded (*ab usupra*) that the common word *Gild* or *Gild-hall* doth proceed: And in *Reg. Orig. fol. 219.* we may read *gildam mercatoriam*, that is the Merchant-gild, which was liberty or privilege granted to Merchants, whereby they are enabled to hold certain Pleas of Land within their own Precincts. This word *Gildes* or *Guilds* is so used, 37. *E. 3. 51.* and 15. *R. 2. cap. 5.* And *Gildhalda Teutonicorum* is used for the Fraternity of *Easterling Merchants* in London, called the *Stil-yard*, 22. *H. 8. 8.* See *Co. lib. 8. fol. 125.* This word is also mentioned 15. *H. 6. 6.* and 15. *Car. 2. cap. 7.*

Gildale, A Computation, where every one paid his share. See *Sothale*.

Gildable or Geldable, That is, lyable to pay Tax or Tribute; and therefore *Camden* calls one part of *Sussex* *Geldable*. It is mentioned 27. *Hen. 8. cap. 26.* It is also expounded in an Old *M. S.* to be that Land or Lordship which is *sub districtione curie Vicecom.* 2. *par. Inst. fol. 701.* *Jur dicunt, quod Prior de Sempringham, tenet tres Carucatas terra in S, et non sunt geldabiles, Ex Rot. Hundr. in Turr. Lond. de Anno 3. E. 1. Linc.* See *Gild*.

Gild-hall, The chief Hall of the City of London, *Gildarum nomine continentur non solum minores Fraternitates et sodalitates sed ipse etiam Civitatum communitates*, sayes the learned *Spelman.* See *Gild*.

Gildhalda Teutonicorum, The *Stil-yard.* See before *Gild*.

Gild-merchant, Gilda Mercatoria. See *Gilde*.

Gildwite. See *Gyltwite*.

Ginger, Zinziber, Is a Spice well known, being the Root of a Plant, that groweth in hot Countries, as *Spain, Barbary, &c.* The true form whereof you have expressed in *Gerards Herbal*, lib. 1. cap. 38. This is a Spice whose Root is to be garbled, 1. *Jar. 19.*

Gynny Pepper, Piper de Guinne, Is otherwise called *Indian Pepper*, of the place where it cometh; the Nature, and farther Description whereof

whereof you have in *Gerards Herbal*, lib. 2. cap. 66. This is mentioned among Drugs and Spices to be garbled, by 1 Jac. 19.

Gisarnes, but more truly **Gisfar-mes**, 13 E. 1. Stat. 3. cap. 6. Is according to *Skene de verb. Signif. verbo* Gysfarum, a kind of Hand-Axe, *Fleta*, lib. 1. cap. 24. sect. Item quod quilibet, writes it *Sisarnes*. *Spelman* says, *Est armorum genus longo manubrio & porrecto cuspide*.

Glawnce eye. See *Plowden*, fol. 320. The Case of Mines.

Glanvil, Was a learned Lawyer, and chief Justice in Henry the Seconds dayes, who writ a Book of the Common Laws of England, which is the ancientest of any extant, touching that Subject, *Stamf. præ. cap. 1. fol. 5*. He was then called in Latine *Ranulphus de Glanvilla*. He died in Richard the Firsts dayes, at the Siege of Acres, in the Coast of Palestine, being with him in his Voyage to the Holy Land, *Plowden*, fol. 368. *Stomels* Case.

Glyn, Signifies a Valley. See *Doomsday-Book*.

Gleabland, **Gleba**, **Church-land**, *Dos ad Ecclesiam pertinet*, Chart. *Elredi Regis Magnæ Brit. Monast. de Croiland, apud Ingulphum*. Imprimis totam insulam Croilandie pro gleba Ecclesie -- *Dono*. *Linwood* says, *Gleba est terra in qua consistit Dos ecclesie*, mentioned in the Stat. 14 Car. 2. cap. 25. we most commonly take it for Land belonging to a Parish-Church, beside the Tythe. *Skene* says, *The four aickers of Land quiblk is granted to the Ministers of the Evangel within this Land, is called aue Gleebe, the quiblk sould be free fra payment of any Teinds*, *De verbor. Sig. verb. Mansus*.

Go, Is used sometime in a special Signification, as to go to God, is to be dismissed the Court; so also is to go without day, *Brake*, tit. *Fayler de Records*, num. 1. See *Smith de Rep. Angl. lib. 2. cap. 13*, and *Kitchin*, fol. 193.

Goaling of Magabonds, That is, sending them to the Gaol, 35 Eliz. cap. 7.

Godbote, Was a Fine or Amerciament for Crimes and Offences against God, an Ecclesiastical or Church Fine.

Good behaviour. See *Good abearing*.

Goats, No man may Common with Goats within the Forest without especial Warrant. *Nota*, That *Capriolus non est bestia, venationis Foresta*, *Manwoods Forest-Law*, cap. 25. num. 2.

Good abearing, *Bonus gestus*, Is by a special signification, an exact carriage or behaviour of a Subject to the King and his Liege People, whereunto Men upon their evil courie of Life, or loose Demeanor, are sometimes bound: For as *Lambard* in his *Eirenarcha*, lib. 2. cap. 2. saith, He that is bound to this, is more strigly bound, than to the Peate; for the Peace is not broken without an Affray, but this Surety de bono gesta may be forfeited by the number of a Mans Company or by his or their Weapons or Harnes. Where-offe more in that learned Writer in the same Chapter, as also in *Crompt. Just. of Peace*, fol. 119, 120, 121, 122, 123, 124, 125, 126, 127.

Good Country, *Bona Patria*, Is an Assise

or Jury of Countrymen or good Neighbors. *Skene de verbor. Signif. verb. Bona patria*.

Goole, From the French *Goulet*, or the Latine *gula*, In Anno 16 & 17 Car. 2. cap. 11. is a breach in a Bank, or Sea-wall, or a passage worn by the flux and reflux of the Sea.

Gorge, May be fetcht from the French *Gort*, that denotes a Wear, [it is a Pool or Pit of Water to keep Fish in; by the Grant whereof the Soyl it self passes, and a *Præcipe quod reddat* lyes of it, as you may see in 4 E. 3. 29. b. and 8 E. 3. 13. a. and F. N. B. fol. 191.] It is also a stop in a River; It is accorded, that all such *Gorges*, Mills, Wears, Stankes, Stakes and Kiddles, which be levyed, and set up in the time of King Edward, the Kings Grand-father, and after, whereby the Kings Ships and Boats be disturbed, that they cannot pass in such River as they were wont, shall be out, and utterly pulled down, without being renewed, 25 E. 3. cap. 4. Co. on Lit. fol. 5. would derive it from *Gorges*, but with what reason, I will not inquire.

Gote, 23 H. 8. 5. A Ditch, Sluce or Gutter, I suppose with more ease drawn from the Latine word *Guttur*, than the Saxon *Gentan*, that signifies, as one saith, *Fundere*.

Graduates, *Graduati*, Are Schollars as have taken degrees in an University, 1 H. 6. 3.

Graffer, *Graffarius*, Signifies a Notary or Scrivener, and is used in the Statute 5 H. 8. cap. 1. Why may it not be derived from the Greek Verb *γράφω*, *Scribo*: I am sure it is apt enough.

Gralle, **Gradale** seu **Graduale**, A *Gradual*, or Book containing some of the Offices of the Roman Church. *Gradale*, says *Linwood*, sic dictum a gradalibus in tali libro contentis, *Provincial Ang. lib. 3*. The word is mentioned in *Plowden*, fol. 542. and 37 H. 6. 32. It is sometimes taken for a *Mass-Book*, or part of it instituted by Pope Celestine, Anno 432. according to *Cotgrave*.

Grand Assise. See *Assise*, and *Magna Assisa*.

Grand Cape. See *Cape* and *Attachment*.

Grand dayes, Are those in every Term solemnly kept in the Inns of Court and Chancery, viz. In Easter Term *Ascension-day*, in Trinity Term *St. John Baptists-day*, in Michaelmas Term *All-Saints-day*, (and of late *All-Souls-day*) and in Hillary Term the Feast of the Purification of our Lady, commonly call'd *Candlemas-day*. And these are *Dies non Juridicii*, no Dayes in Court.

Grand Distresse, *Magna Distressio*, Is so called for quality and extent thereof, for thereby the Sheriff is commanded. *Quod distringat tenentem, ita quod ipse nec aliquis per ipsum ad ea manum apponat, donec habuerit aliud præceptum, & quod de exitibus eorundem nobis respondeat, & quod habeat corporeis, &c.* This Writ lies in two Cafes, either when the Tenant or Defendant is attached, and so returned, and appears not, but makes default; then a *grand Distress* is to be awarded: Or else when the Tenant or Defendant hath once appeared, and after makes default, then this Writ lies by the Common-Law in lieu of a *Petit Cape*, 2. par. *Inst. fol. 254*. 51 H. 3. cap. 9. *Westm. 1. cap. 44.* and *Fleta lib. 2. cap. 69. sect. penult.* See *Distress*.

Grand Sergeant. See *Chivalry* and *Sergeanty*.

Grange, Grangia, Is a House or Farm, not only where Corn is laid up, as Barnes be, and Granaries, &c. but also Stables for Horses, Stalls for Oxen, Styes for Hogs, and other things necessary for Husbandry: And by the grant of a Grange such places will pass, *Provinc. Angl. lib. 2. tit. de Judiciis, cap. Item Omnis*.

Grant, Concessio, Signifies a Gift in writing of such a thing as cannot aptly be passed or conveyed by word only, as Rents, Reversions, Services, Advowsons in gross, Common in gross, Tythes, &c. Or made by such persons as cannot give but by Deed, as the King, and all Bodies Politick, which differences be often in speech neglected, and then it is taken generally for every gift whatsoever, made of any thing by any person; and he that granteth is named the Grantor, and he to whom it is made the Grantee, *West Symbol. part. 1. lib. 2. fol. 334*. A thing is said to lie in grant, which cannot be assigned without Deed, *Coke, lib. 3. fol. 63. Lincoln Colledge Case*.

Graynes, Grana Paradisi, alias Cardamomum, Is a Spice Medicinable and wholesome, whereof you may see divers kinds in *Gerards Herbal. lib. 3. cap. 148*. These are comprised among Merchandise to be garbled by 1 *Jac. 19*.

Great men, Are sometimes understood of the Temporal Lords in the higher House of Parliament, as 43 *E. 3. cap. 2.* and 8 *R. 2. in Proem.* and sometimes of the Members of the House of Commons, as 2 *R. Stat. 2. in principio*.

Grave, A little Wood, Doomsday.

Gravebreach or Breach-breach, Is intended for a breaking of the Peace by Saxon, in his *Description of England, and Rasial, tit. Exposition of words*, but mistaken for Grithbrech See *Grithbrech*.

Gree, Cometh of the French word *Gre* that is good-liking, and in Law signifies Contentment or Satisfaction, as in 1 *R. 2. cap. 15*. To make gree to the Parties, is to give them contentment or satisfaction for an Offence done unto them. So in 25 *E. 3. cap. 19*. That Judgment shall be put in dispenche, till gree be made to the King of his Debt. See *Agreement*.

Green-Cloth. See *Cannings House*.

Greenherb, Is all one with Vert, *Mammwoods Forest Law, cap. 6. num. 3. See Vert*.

Green-silver, Argentum Viride, By Custom in the Mannor of *Writtle* in *Essex*, every Tenant having his Fore-door opening to *Greenbury*, pays a half-penny yearly to the Lord of the Mannor, by the Name of *Green-silver*.

Green-war, Is a word used in 42 *E. 3. 6.* and 7 *H. 4. 3.* and signifies the Estreats of Fines, Issues and Amerciaments in the Exchequer, under the Seal of that Court made in *Green-war*, to be levied in the County. See *Foreigne Apposer*.

Gressume, See *Gersuma*.

Grebe, Praepositus, Is a word of Power and Authority, signifying as much as Comes, or Vicecomes. *Lamb. in his Exposition of Saxon words, verbo Praefectus*, makes it all one with *Reve*. The Saxon word is *Gerefa*, of which we have divers words compounded, as *Shyreve, Portreve, &c.*

which, by the Saxons, were written *Syregerefa, Portgerefa*. See *Shireve* and *Portreve*. *Hovedon part. poster. annal. fol. 346*. *saith, Greve dicitur, ideo quod jure debeat Grith, i. pacem ex illis facere qui patria inferunt vix, i. miseriam vel malum.*

Grithbrech Is a breach of the Peace, *In casus Regis Grithbrech 100 sol. emendabit, Leg. H. 1. cap. 36. in Charta Willelmi Conq. Eccles. sancti Pauli in Hist. ejusd. fol. 90.*

Gills, A kind of little Fish, 22 *E. 4. 2.*

Grithstole, Sedes pacis, A Sanctuary, See *Frodmoortell*.

Grocers, By 37 *E. 3. 5.* Were Merchants that engrossed all Merchandise vendible; but now it is a particular and well-known Trade, incorporated into a Company which is one of the Twelve, and have a very Handsome Hall, from them stiled *Grocers hall*.

Grosne, Vallertus, 33 *H. 8. cap. 10.* Is the Name of a Servant in some inferior place. *Verstegan* in his *Restitution of decayed Intelligence*, saith, That he findeth it to have been in times past a Name for Youths, who albeit they served, yet were they inferior to Men-servants, and were sometimes sent on foot of Errands, serving in such manner as Lackeys do now.

Grosle bois, Is great Wood, and properly signifies such wood as is either by the Common-Law or Custom of the County Timber, 2. *par. Inst. fol. 642.*

Grossome, Signifies a Fine, and is corrupted from *Gersum*. For *Plow. fol. 271*. saith thus, *Es le dit J. K. grant per meisme le indenture a payer en la fine de le dit terme de 10. Ans al dit W. N. deze Mille de tiles ou le value de eux en argent en meisme de Grossome*; And in *fol. 285*. it is written *Gresfame*.

Growth, By 43 *E. 3. cap. 10.* Seems to be an Engine to stretch woollen Cloth with after it is woven.

Growth-half-penny, A Rate paid in some places for Tythe of every fat Beast, Oxe, other unfruitful Cattel, *Claytons Rep. pag. 92.*

Guards, Derived from the French *Gruyer* signifies generally the principal Officers of the Forest of whom you may read in the Forest Records.

Guest-Takers or Gift-Takers. See *Agistors*.

Gubage, Gubdagium, Is that which is given for safe Conduct through a strange Territory, or unknown wayes. *Cassianus de consuetud. Burgun. pag. 119.* whose words be these, *Est guidagium quod datur alicui, ut tuto conducatur per loca alterius, Co. 2. Inst. fol. 526.* calls it an old legal word.

Guild. See *Gild*.

Guldbalda Teutonicozum. See *Gild*.

Gule of August, Gula Augusti, Westm. 2. cap. 30. 27 E. 3. Stat. 3. cap. unico F. N. B. fol. 62. alias *Goule de August*. And *Flowden, fol. 316.* Case of *Mines* is the very day of St. Peter ad vincula, which was wont, and is still celebrated upon the first of August. And in probability called *The Gule of August*, from *gula*, a Throat. The reason we have in *Durands Rationale Divinorum, lib. 7. cap. de festo sancti Petri ad vincula*, where he saith,

That

That one *Quirinus* a Tribune, having a Daughter that had a Disease in her Throat, went to *Alexander*, then Pope of Rome, the sixth from St. Peter, and desired of him to borrow, or see the Chain: that St. Peter was chained with under Nero, which Request obtained; his said Daughter kissing the said Chain, was cured of her Disease, and *Quirinus* with his Family baptized. *Tunc dñs Alexander Papa, fath Durand, hac festum in Calendis Augusti celebrandum. instituit & in honorem beati Petri Ecclesiam in urbe Fabricavit, ubi ipsa vincula reposita & ad vincula nominavit & Calendis Augusti dedicavit. In qua festivitate populus ille ipsa vincula bacie osculatur.* So that this day that before was only called *The Calends of August*, was upon this occasion termed indifferently either of the Instrument that wrought the Miracle, St. Peter's day, or of that part of the Maid whereon the Miracle was wrought, the *Gale of August*. See *Hospinian de origine festorum*, fol. 85. *Averagium asserit fieri debet inter Hock-day et galeum Augusti: Rensale Maneris Regalis de Wy.*

Gyltwit, Is an amends for Trespas, according to *Saxon*, in his Description of England, cap. 11. But we may suppose it mistaken for *Gyltwit*, because no such word is found either in *Spelman's Glossary*, the *Saxon Dictionary*, or ancient Record.

Guest, *Hofes*, Is used by *Bracton* for a Stranger or Guest, that lodges with us the second night, *Lib. 3. tract. 2. cap. 10.* In St. *Edw.* Laws, published by *Lamb.* num. 27. it is written *Gest*. Of this see more in *antouch*.

Gumme, Is a clammy or tough Liquor issuing out of Trees, and hardened by the Sun. Of these there be divers sorts brought from beyond See, that are Drugs to be garbled, as appeareth by the Statute 1 Jac. 19.

Gutter-tile alias Corner-tile, Is a Tile made three-corner-wise, especially to be laid in Gutters, and at the corners of tiled Houses and Dove-houses. *1 Lib. 4. fol. 414.*

Grachmerched, Is a Beitch word, signifying a Fine made to some Lord of Mannor upon the Marriage of their Tenants Daughters, or otherwise upon their committing Incontinency. See *Marchet* and *Lairwir*.

Gualtown, A place of Execution, *Omnia Gualtown*, id est, occidendum loca, totius Regni sunt in feca sua.

Gyltwyte, *Habeatq; ipsa Episcopus* (sc. Oswaldus Ep. *Worcester*) &c. debita transgressionum & penam delictorum que nos dicimus Olesseghesse & Gyltwit, & omnia quaecumq; Rex in suis hundredis habet. Ex ipso Autographo *Eadgari Regis* dat. anno 964. *Penes Regem*; It signifies a Compensation for Trespas or Frauds.

Habeas Corpus, Is a Writ which a man indicted of a Trespas before Justices of Peace, or in a Court of any Franchise, and being apprehended and imprisoned for the time, may have out of the Kings Bench to remove

himself thither at his own Costs, and to answer the Cause there, *F. N. B. fol. 250.* And the order in this case is, first to procure a *Certiorari* out of the Chancery, directed to the said Justices, for the removing of the Indictment into the Kings Bench, and upon that to procure this Writ to the Sheriff, for the causing of his Body to be brought at a day, *Reg. Jud. fol. 82.* where you may find divers Cases, wherein this Writ is to be used.

Habeas corpora, Is a Writ that lies for the bringing in of a Jury, or so many of them as refuse to come upon the *Ventre facias*, for the Trial of a Cause brought to Issue, *Old Nat. Brev. fol. 177.* See great diversity of this Writ in the Table of the *Register Judicial*, verbo *Habeas corpora*, and the *New Book of Entries*, verbo *Edem*.

Habendum, Is a word of form in a Deed or Conveyance, every of which must have two parts, viz. the *Premises* and the *Habendum*: The Office of the *premises* is, to express the Name of the Grantor, Grantee, and the thing granted. The Office of the *habendum* is, to limit the Estate, so that the general implication of the Estate, which, by construction of Law passeth in the *premises*, is by the *habendum* controlled and qualified. As in a Lease to two persons, *habendum* to the one for life, the Remainder to the other for life, altereth the general implication of the Joynt-tenancy in the Free-hold, which should pass by the *premises*, if the *habendum* were not, *Co. 1. fol. 55. Bucklers Case*. See use.

Habere factas seisinam, Is a Writ Judicial, which lyeth where a man hath recovered Lands in the Kings Court, directed to the Sheriff, and commanding him to give *seisinam* of the Land recovered, *Old Nat. Brev. fol. 134.* See great diversity thereof in the Table of the *Register Judicial*, verbo *Habere factas seisinam*. This Writ is sometimes Muing out of the Records of a Fine executory, directed to the Sheriff of the County where the Land lyeth, and commanding him to give to the Cognizee, or his Heirs, *seisinam* of the Land, whereof the Fine is levied, *Writ* lyeth within the year after the Fine of Judgment, upon a *Scire facias*, and may be made in divers form, *Writ. Statut. 2. in Fine, fol. 156.* There is also a Writ called *Habere factas seisinam ab i. Rex habuit annuam, idem & vassum*, which is for the delivery of Lands to the Lord of the Fee, after the King hath taken his due of Lands of him that was convicted of Felony, *Writ. fol. 165.*

Habere factas dissem, Is a Writ that lyeth in divers Case, where view is to be taken of the Lands or Tenements in question, *F. N. B. in Indice*, verbo *View*. *Bracton*, lib. 2. tract. 3. cap. 2. & lib. 3. part. 2. cap. 15. See *View*, *Reg. Jud. fol. 126, 127, 43, 49, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.*

Haberjets or Hauberjets, *Haubergetta*, A kind of Cloath, and *fur latitudo pannorum tinctorum, ruffatorum & Haubergettarum*, scil. *duo uli & infra tipas*, *Mag. Chart. cap. 25, 26. Et papilla beculi*, part 2. cap. 22.

Habiliments of War, *Eliz. cap. 4.* Are Armor, Harnefs, and Provision of War, of all sorts, without which no War can be maintained, 2. part. *Inst. fol. 73.*

Hables, Is the plural of the French *Hable*, signifying a Port or Haven of the Sea, whence Ships set forth into other Countries, and where

Grand Sergeanty. See *Chivalry* and *Sergeanty*.

Grange, Grangia, Is a House or Farm, not onely where Corn is laid up, as Barnes be, and *Granaries*, &c. but also Stables for Horses, Stalls for Oxen, Styes for Hogs, and other things necessary for Husbandry: And by the grant of a Grange such places will pass, *Provinc. Angl. lib. 2. tit. de Judiciis, cap. Item Omnis*.

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Great men, Are sometimes understood of the Temporal Lords in the higher House of Parliament, as 43 E. 3. cap. 2. and 8 R. 2. in *Præm.* and sometimes of the Members of the House of Commons, as 2 R. Stat. 2. in *principio*.

Graba, A little Wood, Doomsday.

Gratch, bratch or Gratch-bratch, Is intended for a breaking of the Peace by Saxton, in his *Description of England*, and *Rastal, tit. Exposition of words*, but mistaken for *Grithbrech* See *Grithbrech*.

Gree, Cometh of the French word *Gree* that is good-liking, and in Law signifies Contentment or Satisfaction, as in 1 R. 2. cap. 15. To make *gree* to the Parties, is to give them contentment or satisfaction for an Offence done unto them. So in 25 E. 3. cap. 19. That Judgment shall be put in dispençe, till *gree* be made to the King of his Debt. See *Agreement*.

Green-Cloth. See *Counting House*.

Greenhem, Is all one with *Vert*, *Mannwoods Forest Lam, cap. 6. num. 5*. See *Vert*.

Greensilver, Argentum Viride, By Custom in the Mannor of *Wittle* in *Essex*, every Tenant having his Fore-door opening to *Greenbury*, pays a half-penny yearly to the Lord of the Mannor, by the Name of *Green-silver*.

Green-war, Is a word used in 42 E. 3. §. and 7 H. 4. 3. and signifies the *Estreats* of Fines, Issues and *Amerciaments* in the Exchequer, under the Seal of that Court made in *Green-war*, to be levied in the County. See *Foreigner Apposer*.

Gressume, See *Gerfuma*.

Grebe, Præpositus, Is a word of Power and Authority, signifying as much as *Comes*, or *Viccomes*. *Lamb. in his Exposition of Saxon words, verbo Præfectus*, makes it all one with *Reve*. The Saxon word is *Gerofa*, of which we have divers words compounded, as *Shyreve*, *Portreve*, &c.

which, by the Saxons, were written *Syregerefa*, *Portgerefa*. See *Shireeve* and *Portreve*. *Hovedon part. poster. annal. fol. 346*. *saith, Greve dicitur, ideo quod jure debeat Grieb, i. pacem ex illis facere qui patria inferunt ve, i. miseriam vel malum.*

Grithbrech Is a breach of the Peace, *In casu Regis Grithbrech 100 fol. emendabit, Leg. H. 1. cap. 36. & Charta Willelmi Conq. Eccles. sancti Pauli in Hist. xij. fol. 90.*

Gills, A kind of little Fish, 22 E. 4. 2.

Grithstole, Sedes pacis, A Sanctuary, See *Frodmorell*.

Grocers, By 37 E. 3. 5. Were Merchants that engrossed all Merchandise vendible; but now it is a particular and well-known Trade, incorporated into a Company which is one of the Twelve, and have a very Handsome Hall, from them called *Grocers hall*.

Grossome, Fallatus, 33 H. 8. cap. 10. Is the Name of a Serfant in some inferior place. *Verfegan* in his *Restitution of decayed Intelligence*, saith, That he findeth it to have been in times past a Name for Youths, who albeit they served, yet were they inferior to Men-servants, and were sometimes sent on foot of Errants, serving in such manner as Lackeys do now.

Grosse bois, Is great Wood, and properly signifies such wood as is either by the Common-Law or Custome of the County Timber, 2. *part. Inst. fol. 642.*

Grossome, Signifies a Fine, and is corrupted from *Gerfum*. For *Plow. fol. 271*. saith thus, *Et le dit J. K. grant per mesme le indenture a payer en la fine de le dit terme de 10. Ans al dit W. N. deze Mille de tiles ou le value de eux en argent en nosme de Grossome*; And in *fol. 285*. it is written *Gresfame*.

Growth, By 43 E. 3. cap. 10. Seems to be an Engine to stretch woollen Cloth with after it is woven.

Growth-half-penny, A Rate paid in some places for Tythe of every fat Beast, Oxe, other unfruitful Cattel, *Claytons Rep. pag. 92*.

Guartir, Derived from the French *Gruyer* signifies generally the principal Officers of the Forest of whom you may read in the Forest Records.

Guest-Takers or Gift-Takers. See *Agiftors*.

Guidage, Guidagium, Is that which is given for safe Conduet through a strange Territory, or unknown wayes. *Cassaneus de consuetud. Burgun. pag. 119*. whose words be these, *Est guidagium quod datur alicui, ut tuto conducatur per loca alterius*, Co. 2. *Inst. fol. 526*. calls it an old legal word.

Guild. See *Gild*.

Guldbalda Teutonicozum. See *Gild*.

Gule of August, Gula Augusti, Westm. 2. cap. 30. 27 E. 3. Stat. 3. cap. unico F. N. B. fol. 62. alias Goule de August. And *Plowden, fol. 316*. Case of Mines is the very day of St. Peter ad vincula, which was wont, and is still celebrated upon the first of August. And in probability called *The Gule of August*, from *gula*, a Throat. The reason we have in *Durands Rationale Divinorum, lib. 7. cap. de festo sancti Petri ad vincula*, where he saith, That

That one *Quirinus* a *Tribune*, having a Daughter that had a Disease in her Throat, went to *Alexander*, then Pope of *Rome*, the sixth from *St. Peter*, and desired of him to borrow, or see the Chain: that *St. Peter* was chained with under *Nero*, which Request obtained; his said Daughter kissing the said Chain, was cured of her Disease, and *Quirinus* with his Family baptized. *Tunc dicitur Alexander Papa*, saith *Durand*, *hoc festum in Calendis Augusti celebrandum instituit & in honorem beati Petri Ecclesiam in urbe Fabricavit, ubi ipsa vincula reposita & ad vincula nominavit & Calendis Augusti dedicavit. In qua festivitate populus ille ipsa vincula in baculo osculatur*: So that this day that before was only called *The Calends of August*, was upon this occasion termed indifferently either of the Instrument that wrought the Miracle, *St. Peter's day* *ad vincula*; or of that part of the Maid whereon the Miracle was wrought, the *Gule of August*. See *Hospinian de origine festorum*, fol. 85. *Averagium assivale fieri debet inter Hock-day et gulam Augusti: Rentale Maneris Regalis de Wy*.

Gyltwit, Is an amends for Trespas, according to *Saxton*, in his *Description of England*, cap. 11. But we may suppose it mistaken for *Gyltwit*, because no such word is found either in *Spelman's Glossary*, the *Saxon Dictionary*, or ancient Record.

Guest, *Hospes*, Is used by *Bracton* for a Stranger or *Guest*, that lodges with us the second night, *Lib. 3. tract. 2. cap. 10*. In *St. Edw. Laws*, published by *Lamb. num. 27*. it is written *Gest*. Of this see more in *uncouth*.

Gumme, Is a clammy or tough Liquor issuing out of Trees, and hardened by the Sun. Of these there be divers sorts brought from beyond See, that are Drugs to be garbled, as appeareth by the Statute 1 Jac. 19.

Gutter-tile, alias **Corner-tile**, Is a Tile made three-corner-wise, especially to be laid in Gutters, and at the corners of tiled Houses and Dove-houses, *12 Ed. 4. c. 4*. *2 Ed. 4. c. 4*. *10 Ed. 4. c. 4*. **Steads**, *merced*, Is a Baillish word, signifying a Fine made to some Lord of Mannor upon the Marriage of their Tenants Daughters, or other wise upon their committing Incontinency. See *Marchet* and *Lairmir*.

Gualtown, A place of Execution, *Omnia Gualtown*, id est, *occidendum loca*, totius Regni sunt in foca sua.

Gyltwyte, *Habeatq; ipsa Episcopus* (sc. Oswaldus Ep. Worcesterastre) &c. *debita transgressionum & penam delictorum que nos dicimus Olesseghesse & Gyltwit*, *Omnia quaecumq; Rex in suis bundredis habet. Ex ipso Autographo Eadgari Regis dat. anno 964. Penes Regem*; It signifies a Compensation for Trespas or Frauds.

Habeas Corpus, Is a Writ which a man indicted of a Trespas before Justices of Peace, or in a Court of any Franchise; and being apprehended and imprisoned for the same, may have out of the Kings Bench to remove

himself thither at his own Costs, and to answer the Cause there, *F. N. B. fol. 250*. And the order in this case is, first to procure a *Certiorari* out of the Chancery, directed to the said Justices for the removing of the Indictment into the Kings Bench, and upon that to procure this Writ to the Sheriff, for the causing of his Body to be brought at a day, *Reg. Jud. fol. 81*, where you may find divers Cases, wherein this Writ is to be used.

Habeas corpora, Is a Writ that lies for the bringing in of a Jury, or so many of them as refuse to come upon the *Ventre facias*, for the Trial of a Cause brought to Issue, *Old Nat. Broc. fol. 127*. See great diversity of this Writ in the Table of the *Register Judicial*, verbo *Habeas corpora*, and the *New Book of Entries*, verbo *Hodden*.

Habendum, Is a word of form in a Deed or Conveyance, every of which must have two parts, viz. the *Premises* and the *Habendum*. The Office of the *premises* is, to express the Name of the Grantor, Grantee, and the thing granted. The Office of the *habendum* is, to limit the Estate, so that the general implication of the Estate, which, by construction of Law passeth in the *premises*, is by the *habendum* controlled and qualified. As in a Lease to two persons, *habendum* to the one for life, the Remainder to the other for life, altereth the general implication of the Joynt-tenancy in the Free-hold, which should pass by the *premises*, if the *habendum* were not, *Co. vol. 1. fol. 55. Bucklers Case*. See use.

Habere factas seisinam, Is a Writ Judicial, which lyeth where a man hath recovered Lands in the Kings Court, directed to the Sheriff, and commanding him to give *seisin* of the Land recovered, *Old Nat. Broc. fol. 134*. See great diversity thereof in the Table of the *Register Judicial*, verbo *Habere factas seisinam*. This Writ is sometimes issuing out of the Records of the Fine executory, directed to the Sheriff of the County where the Land lyeth, and commanding him to give to the Countee, or his Heirs, *seisin* of the Land, whereof the Fine is recovered, under Writ lyeth within the year after the time of Judgment, upon a *Scire facias*, and may be made in divers forms, *West. Symbol. 2. in Fine, fol. 166*. There is also a Writ called *Habere factas seisinam ubi Rex habuit annum diem & vestrum*, which is for the delivery of Lands to the Lord of the Fee, after the King hath taken his due of Lands of him that was convicted of Felony, *Old Nat. fol. 165*.

Habere factas view, Is a Writ that lyeth in divers Case, where view is to be taken of the Lands or Tenements in question, *F. N. B. in Indice*, verbo *View*. *Bracton*, lib. 1. tract. 3. cap. 8. & lib. 5. part. 2. cap. 11. See *View*, *Reg. Jud. fol. 1. 26, 28, 43, 49, 52*.

Haberjets or **Haubergerjets**, *Haubergerjets*, A kind of Cloth, *una sit latitudo pannorum tinctorum, ruffatorum & Haubergerjetarum, scilicet due ul. & infra lipas*, *Mag. Chart. cap. 25. 26. Et pupilla oculi*, part 2. cap. 22.

Habiliments of War, *Etiz. cap. 4*. Are Armour, Harness, and Provision of War, of all sorts, without which no War can be maintained, 3. par. Inst. fol. 73.

Hables, Is the plural of the French *Hable*, signifying a Port or Haven of the Sea, whence Ships set forth into other Countries, and where

they do arrive when they return from their Voyage: This word is used 27 H. 6. 3.

Habbote, Was a Recompence made for the violation of Holy Orders, or violence offered to persons in Holy-Orders, *Saxon-Dictionary*.

Hade of Land, *Hada terra; Sursum reddidit in manus Domini duas acras terra continens decem scilones & duas Hadas; Anglice, Ten Ridges, and two Hades, jacent snecr. terr. Sc. Maner de Orleton, Anno 16 Jac.*

Herede deliberando alii qui habet custodiam terre, Is a Writ directed to the Sheriff, willing to Command one, having the Body of him that is Ward to another, to deliver him to him, whose Ward he was by reason of his Land, *Reg. Orig. fol. 161.* This is now out of use by 12 Car. 2 Cap. 24.

Herede adducto, Is a Writ that lyeth for a Lord, who having the Wardship of his Tenant under age, by right cannot come by his Body, for that he is conveyed away by another, *Old Nat. Brev. fol. 93.* See *Ravishment de Gard*, and *Herede rapto in Reg. Orig. fol. 163.* but now of no use.

Heretico comburendo, Is a Writ that lies against him that is a Heretick, viz. that having once been convicted of *Heresia* by his Bishop, and having abjured it, afterwards falleth into it again, or into some other, and is thereupon committed to the secular Power, *F.N.B. fol. 269.* This Writ lies not at this day, according to the Opinion of Sir *Edw. Coke* in his Twelfth Rep. fol. 93.

Haga, is used as a kind of Latine word for a House in a City or Burrough: In *Doomsday Book in Suffex, Terra Rogerii, num. 11.* Radulfus monachus Hagam de xii. denar. Will. quinq; hagas de 1 fol. &c. In an old Book, sometimes belonging to the Abbey of St. *Austins* in *Canterbury*, we find that King *Stephen* sent his Writ to the Sheriff and Justices of *Kent* in this manner, *Stephanus Rex Anglorum, Vice-comes & Justiciarii de Kent, salutem; Precipio quod faciatis habere Ecclesie Sancti Augustini & Monachi hagam suam quam Gosceold eis dedit, &c.*

Haine Courts, *Hafne*, Is a Danish word signifying a Haven or Sea-port, in Letters Patent of *Richard Duke of Gloucester, Admiral of England, 14. Aug. 5 E. 4.* are these words, *Uterius discunt quod dicti Abbas & conventus & predecessores sui habent & habere consueverunt per idem tempus in pradiis villis (Bancafter & Ringsted) cum bulnis, quasdam curias portus vocatas Haine Courts tenendas ibidem, &c.* Haven Courts, 4 *Inst. fol. 147.*

Hagbut, See *Hague* and *Haguebut*.

Haja, A Hedge, and sometimes taken for a Park or Enclosure, *Vallatum fuit, Sc. Fossata Haja & Palatio, Bract. lib. 2. cap. 40. num. 3.* Hence *Hajement* for a Hedge-fence, *Rot. Inq. 36 E. 3. in Scac. de Foresta.*

Haidbote, Is an irregular compound of the French *Haye*, i. *Sepe*, and the Saxon *Bote*, *compensatio* & used for a permission to take Thorns or Freeth to make or repair Hedges. See *Hedgebote*.

Hall-haque, See *Haque*.

Halsfang. See *Pillory* and *Healfang*.

Hallmerk. *Dimidia Merka*, Is a Noble *F.N.B. fol. 5.* where he saith, That in case a Writ.

of Right be brought, and the seisin of a Demandant, or his Ancestor, alledged, the seisin is not traversable by the Defendant, but he may tender or proffer the *Half-mark* for the enquiry, of this seisin; which is in plain terms, that the Defendant shall not be admitted to deny, that the Demandant or his Ancestor, was seised of the Land in question, and to prove his denial; and that he shall be admitted to tender *half a Mark* in Money, to have an Enquiry made, whether the Demandant, &c. were so seised or not. And in this signification we find the same words in the *Old Eng. Nat. Brev. fol. 26.* Know, that in a Writ of Right of an Advowson brought by the King, the Defendant shall not proffer the *half mark*, &c. whereof *Fitzherbert, ubi supra*, giveth this reason, because in the Kings Case, the Defendant shall be permitted to traverse the Seisin, by Licence obtained of the Kings Sergeant. To which effect see *F. N. B. fol. 31.*

Half-Seal, Is used in the Chancery for the sealing to *Delegates*, appointed upon any Appeal, either in Ecclesiastical or Marine Cause, 8 *Elix. 5.*

Half-Tongue, See *Medietas Lingua*.

Halymote alias *Healgemote*, Is a Court-Baron, *Manwoods Forest Law, cap. 23.* And the Etymology is the meeting of the Tenants of one Hall or Mannor. See *Gains Preface to his Reading, Omnis causa terminetur, vel Hundredo, vel Comitatu, vel Halymote, focum habentium, Leg. Hen. 1. cap. 10.* The Name is still kept in several places in *Herefordshire*. It is sometimes taken for a Convention of Citizens in their publick Hall; as in *London* every Company hath a Hall, wherein they keep their Courts, 2 *Inst. fol. 249.* It may also signify a Holy or Ecclesiastical Court.

Hall, *Halla*, The Saxon word is *Healle*, and antiently denoted a chief Mansion-house or Habitation; which word we retain in many Counties of England to this day, especially in the County-Palatine of *Chester*, where every Gentleman of Qualities Seat is termed a Hall.

Hallage, Is a Fee due for Cloaths brought for Sale to *Blackwell-Hall* in *London*, *Co. vol. 6. fol. 62. b.* Also the Toll due to the Lord of a Fair or Market, for such Commodities as are vended in the Common Hall of the place.

Hallamshire, Is a part of *Yorkshire*, in which the Towns of *Sheffield* stands, 21 *Jac. cap. 23.*

Ham, A House, also a Village or little Town: This is a termination of many Towns in England, as *Nottingham, Buckingham, Walsingham, &c.*

Hambles, See *Hables*.

Hambling, or *Hameling* of Dogs, Is the same with expeditating; *Manwoods Forest Law, cap. 16. num. 5.* says, This is the ancient term that Foresters used for that matter, and *num. 12.* he adds, *Canutus* in his 31 Canon, doth call *The lawing of Dogs, Genu-scisso*, which was a kind of cutting or laming of Dogs in the hams, which the old Foresters called *Hamling*. See *Expeditate*.

Hamlet, as also *Hamel* and *Hampfel*, Are diminutives of *Ham*, which signifies Habitation,

bitation. *Cambr. Brit. pag. 149. & 354.* *Kitchin* hath *Hamel* in the same sense, who also useth *Hampfel* for an old House or Cottage decayed, *fol. 103.* *Hamlet*, as *Stow* useth it in *Edw. 3.* seemeth to be the Seat of a Free-holder; for there he saith, The King bestowed two Mannors and nine *Hamlets* of Land upon the Monastery of *Westminster*, for the keeping of yearly Obits for his Wife, *Queen Eleanor* deceased. *Spelman* making a difference betwixt *Villam integram*, *villam dimidiam* & *Hamlettram*, hath these words, *Hamlettram vero quæ medietatem friborgi non obtinuit, hoc est ubi quinq; Capitales Plegii non sint deprebensi.* The Statute of *Exton*, 14. E. 1. mentions it thus, *Lex nosmet de soues les villes & Hamlets que sont en son Wapentake*, &c.

Hamsfare, An Assault made upon a House. See *Gloss. in scriptores.*

Hamsoken, See *Homesoken*, *Skene de verbor. Signif.* writeth it *Haimfoken*; and deriveth it from *Haim* a German word, signifying a House, and *Suchen*, that is, to seek, search, or pursue: It is used in *Scotland* for the Crime of him that violently, and contrary to the Kings Peace, assaulteth a Man in his own House, which, (as he saith) is punishable equally with Ravishing a Woman. *Significat etiam quietantiam misericordia intrationis in alienam domum tui & injuste.* *Fleta lib. 1. cap. 47.* Our antient Records expresse Burglary under this word *Hamsoken*. In a Charter of Donation from King *Edmund* to the Church of *St. Mary Glaston*, we have these words, *Concedo libertatem & potestatem jura, consuetudines & omnes fortissimas ac omnium terrarum suarum, i. Burgberis & Hamdred, Seicna, Athar & Ordclaw & Infangthesow, Hamsocne & Fridebriç & Foresel & Tell & Team in omni Regno meo*, &c.

Hand-bow, A Surety, a manual Pledge, that is, an inferior Undertaker; for *Head-bow* is a superior or chief Instrument, *Spelman*.

Hand in and hand out, 17 E. 4. cap. 2. Is the name of an unlawful Game.

Handful, Is four Inches by the Standard, *Anno 33 H. 8. s. 5. &c.*

Hand-gun, Is an Engine prohibited to be used, and carried about by the Statute, 33 H. 8. 6. And though a Dag was invented of late time, and after the making of the said Act, and is not known by the name of a *Hand-gun*, but by its own special name; yet the carrying a Dag is within the said Act. See *Co. lib. 5. fol. 71, 72.*

Handy-wary, A kind of Cloth made at *Cocktail*, *Backing*, and *Brain-tree* in *Essex*, and mentioned in the Statute 4 & 5 Phil. & Mar. 5.

Hausfare. See *Hincfare*.

Hangwite alias *Hangwit*, or *Peng-wit*, Cometh of the Saxon words *Hangian*, *pendere* and *wite*, *mulcta*. *Rassal* saith, It is a liberty granted to a man, whereby he is quit of a Felon or Thief hanged without Judgment, or escaped out of Custody. By some it hath been interpreted, *Mulcta pro domine injuste suspensa*, and elsewhere *Mulcta pro latrone prater jura exigentiam suspensa vel elapsa*. It may also signify a Liberty, whereby a Lord challengeth the Forfeiture due for him, who hangs himself within his Fee, *sed quare*. See *Bloodwit*.

Hauper, *Hanaprium*, The *Hanaper* of the

Chancery, *Anno 10. R. 2. cap. 1.* seems to signify the same, that *Fiscus* doth originally in the Latine. See *Clerk of the Hanaper*.

Hanse, According to *Orielius* in the Index to his *Additament* to his *Theatre*, vet. *Anstasici*, Is an old Gothish word: It signifieth a certain Society of Merchants combined together, for the good usage and safe passage of Merchandise from Kingdom to Kingdom. This Society was, and in part yet is, endowed with many large privileges of Princes respectively within their Territories. It had four principal Seats or Staples, where the *Almain* or German Merchants being the Erectors of this Society had an especial House, one of which was here in *London*, call'd *Gildhalda Teutonicorum*, or among us vulgarly the *Steel-yard*.—*Et quod habent Gildam mercatorum cum Hanfa*, &c. *Charta Henr. 7. Ballivis & Burgens. Montgomer.*

Happe, Cometh of the French *Happer*, i. *Rapere*, to snatch or catch: And signifies the same with us, as to *happe* the possession of a Deed-poll, *Littleton*, fol. 8. To *happe* the Rent, as if partition be made by two Parcenors; and more Land be allowed to one than the other; and she that has most of the Land charges it to the other, and she *happeth* a Rent, she shall remain an *Assise* without speciality.

Haque, Is a Hand-gun about three quarters of a yard long, 33 H. 8. cap. 6. and 2 & 3 E. 6, cap. 14. There is also the *Half-haque*, or *Demy-haque*. See *Haquebut*.

Haquebut, Is a Sort of Gun, which we otherwise call a *Harquebuss*, being both French words, 2 & 3 E. 6. 14. 4 & 5 Phil. & Mar. cap. 2.

Haratium, or *Haracium* (from the French *Haras*) signifies a race of Horses and Mares, kept for breed. *Spel. Gloss. verb. Haracium.* Et *decimas de dominio suo de pratis, de bladis parcis, Haratilis, molendinis & de Fructibus*, *Mon. Ang. part. 1. fol. 339.*

Harior alias *Herior*, *Heriorum*, Is in the Saxon Tongue *Heregite*, which is derived from *Hert*, *exercitus*; and *Geat* is a Beast, and in the Saxons time signified a Tribute given to the Lord for his better preparation towards War. *Lambert* in his *Explication of Saxon words, verbo Hereorum*. The name is still retained, but the use is altered; for whereas by *Lambert's* Opinion, it did signify so much as Relief doth now with us: Now it is taken for the best Cattle that a Tenant hath at the hour of his death, due to the Lord by Custom, *Kitchin*, fol. 133, 134. makes *Herior* Service and *Herior* Custom; for interpretation whereof, you shall find these words in *Broke*, tit. *Harior*, num. 5. *Harior* after the death of the Tenant for life is *Harior-Custom*. *Harior-Service* is after the death of Tenant in Fee-simple. In the Book called *Les Termes de la Ley*, 'tis said, That *Harior-Service* is often expressed in the Grant of a Man, that he holds by such Service to pay *Harior* at the time of his death, that holdeth in Fee-simple. *Harior-Custom* is, when *Harior* have been paid time out of mind by Custom, and this may be after the death of Tenant for life. And for this the Lord may distrain or seize. See *Plowd.* fol. 95, 96. *Bracton*, lib. 2. cap. 36. *DoB.* and *Stud.* cap. 9. But of right neither the Lord nor Officer should take *Harior*, before it be presented at the

next

next Court holden after the Tenant is dead, that such a Beast is due for a *bariot*. If the Lord purchase part of the Tenancy, *Bariot-service* is extinguished; but it is not so in *Harriot-custome*, Co. 8. Rep. *Talkots Case*. If the Lord ought to have a *bariot* when his Tenant dieth, and the Tenant deviseth away all the Goods, yet the Lord shall have his *bariot*, for the Law preferreth the Custom before the Devise, Co. on Lit. lib. 3. cap. 3. pag. 185. See *Dyer*, fol. 199. num. 38. This in Scotland is called *Herrezelda*, compounded of *Hare* in Dutch, in Latine *Herus*, that is, a Lord or Master; and *Zeild* a Gift, Tribute or Taxation. *Skene de verb.* Signif. verbo *Herrezelda*.

Hart, Is a Stag of five years old compleat, *Manwoods Forest Law*, cap. 4. num. 5. which he hath out of *Budeus de Pbilosog.* lib. 10. And if the King or Queen do hunt him, and he escape away alive, then afterward he is called a *Hart-Royal*; And if the Beast by the King or Queens hunting be chased out of the Forest, and so escape, Proclamation is commonly made thereabout, that in regard of the Pastime, that the Beast hath shewed to the King or Queen, None shall hurt him, or hinder him from returning to the Forest; and then he is a *Hart-royal* proclaimed.

Hart-Penny, and **Hart-Silver**, and **Hart-Poney**. See *Chimney-Money* and *Peter-Pence*.

Haundergetts. See *Habergetts*.

Haw, A small quantity of Land so called, as a *Leap-haw*, a *Bean-haw*, lying near the house; But some Manuscripts say, That *Hawes* vocatur *mansiones*. And Co. on Lit. fol. 5. say, That in an old Plea; relating to *Feverham* in Kent, *Hawes* are interpreted to signify the same.

Haward. See *Hayward*.

Hawberke, Cometh of the French *Hau-berc*, *Loricæ*, whereupon he that holdeth Land in France, by finding a Coat or Shirt of Maille, and to be ready with it when he may be called, is said to have *Hauberticum feudum*; whereof *Holdman* writeth thus, *Hauberticum feudum Gallica Lingua vulgo dicitur pro Loricatum, datum vassallo ea conditione, ut ad bellum Loricatus sive Cataphractus sit praesto. Nam ut Loricæ Latini proprie, tegmen de ferro factum quo majores in bello utebantur, &c. frequentissime a nem pro aenea armatura integre usurpatur; sic apud Gallos Haubert proprie Loricam annulis contextam significat, quam vulgus Cote de Maille appellat, Holdan in verb. Feudal. verbo Hauberticum Feudum. Hawberke, with our Ancestors, seemeth to signify as in France a Shirt or Coat of Maille, and so it seemeth to be used, 13 E. 1. Stat. 3. cap. 6. Though in these days the word is otherwise written, as *Halbert*, and signifies a Weapon well enough known.*

Hawes, In *Doomsday Book* signifies Mansions or Dwelling-houses.

Hawkers, Be a sort of deceitful Fellows that go from place to place, buying and selling Brags, Pewter, and other Merchandise, that ought to be uttered in open Market: The appellation seemeth to grow from their uncertainty, like those that with *Hawks* seek their Game where they can find it; you may read the word 25 H. 8. 6. and 33. H. 8. 4. We now call those *Hawkers* that go up and down the Streets crying *News-Books*, and

selling by Retail; and those who sell them by Whole-sale from the Press are called *Mercurys*.

Haye, A Hedge, also a piece of Ground inclosed with a Hedge. See *Hais*.

Hayward alias **Haward**, Is a compound of two French words, viz. *Hay* i. *Sepes*, and *Gard*, i. *Custodia*, and signifies one that keepeth the common Herd of the Town; and the reason may be, because one part of his Office is to look that they neither break nor crop the Hedges of inclosed Grounds: He is an Officer sworn in the Lords Court, and the form of his Oath you may see in *Kitchin*, fol. 46.

Hazarders, Are such as play at *Hazard*, a Game at Dice so called: *Hazardor communis ludens ad falsos talos; adjudicatur quod per sex dies in diversis locis; ponatur super Calistigium*, Inter place Trin. 2 H. 4. Suffex 10.

Headborow, Derived from the Saxon *Head*, id est, *caput*, & *Borge*, i. *Pignus*; signifies him that is chief of the *Frank-Pledge*, and him that had the principal Government of them within his own Pledge. And as he was called *Headborow*, so was he also called *Burrow-head*, *Bursholder*, *Third-borow*, *Tybing-man*, *Chief-pledge* or *Burrow-elder*, according to the diversity of Speech in several places. Of this see *Lambert* in his Explication of Saxon words, verbo *Centuria*, and in his Treatise of *Constables*, and *Smith de Rep. Angl.* lib. 2. cap. 22. This Officer is at present call'd a *Constable*. See *Constable*.

Head-pence, Was an Exaction of 40 li. or more, heretofore collected by the Sheriff of *Northumberland*, of the Inhabitants of that County twice in seven years, that is, every third and every fourth year, without any Account made to the King, which was therefore by the Statute of 13. H. 6. cap. 7. clearly put out for ever. See *Common Fine*.

Head-Silver. See *Head-pence*.

Healsang, Is compounded of two Saxon words, viz. *Hali*, i. *Colonus*, and *Fang*, *caput*; It is that punishment *qua allium collum fringatur*. See *Pillory*.

Hearty-Money. See *Chimney-Money*.

Heck, Is the name of an Engine, to take Fish in the River of *Ouse* by *York*, Anno 13 Hen. 8. 18.

Heda, A Haven or Port, *Doomsday*.

Heire, *Heir*, Though the word be borrowed of the Latine, yet it hath not altogether the same signification with us that it hath with the *Quithons*; for whereas they call *Herodem*, *qui ex testamento succedit in universum jus Testatoris*; The Common-Law calls him *Heir*, that succeeds by right of Blood in any mans Lands or Tenements in Fee; for by the Common-Law nothing passeth *Jure hereditatis*, but only Fee; Moveables, or Chattels immoveable, are given by Testament to whom the Testator liketh, or else are at the disposition of the Ordinary, to be distributed as he in conscience thinketh meet. *Cassandus in consuetud. Burg.* pag. 999. hath a distinction of *heire*, which, in some sort accordeth well with our Law; for he saith, There is *Heires sanguinis et hereditatis*. And a man may be *Heires sanguinis* with us, that is, *Heir* apparent to his Father or Ancestor; and yet may, upon displeasure, be defeated of his Inheritance, or at least the greatest part of it. Every

beir having Lands by descent, is bound by the binding acts of his Ancestors, if he be named, *Qui sentis commodum sentire debet & onus*, Co. on Lit. fol. 7, 8.

Last-heir. See *Last*.

Heir-loome, Seemeth to be compounded of *Heir* and *Loome*, that is, a Frame to weave in; the word by Time hath a more general signification than at first it did bear, comprehending all Implements of Household, as Tables, Presses, Cupboards, Bedsteads, Waincoat, and such like; which, by the Custome of some Countreies, having belonged to a house certain descents, are never inventoried after the decease of the Owner as Chattels, but accrue to the *Heir* with the house it self by custome. *Spelman* says of it, *Omne utensile robustius quod ab edibus non facile revellitur, ideoq; ex more quorundam locorum ad heredem transit, tanquam membrum hereditatis*. And Co. on Lat. fol. 18. says, *Consuetudo Hundredi de Stretford in Com. Oxon. est quod heredes tenementorum infra Hundredum prædictum existens, post mortem antecessorum suorum habebunt, &c. Principalium, Anglice an Heyre loome, viz. de quadam genere cassalorum, utensilium, &c. optimum plaustrum, optimam carucam, optimum cippum, &c.*

Heinfare alias **Hinefare**, *Discessio famuli a Domino*, The word is compounded of *Hine*, a Servant, and *Fare*, an old English word signifying a Passage.

Hebberman, One that fishes below London Bridge for Whittings, Smelts, &c. commonly at *Ebbing-water*, and therefore so called, mentioned in the Articles for the *Thames Jury*, printed 1632.

Hebbing-Wears, They are mentioned in the Stat. 23 H. 8 cap. 5.

Heffa, *Servitium*, Inter placita de temp. Jo. Regis Northampton 50.

Henchman or **Heinsman**, A German word signifying *Domesticum*, aut *unum de familia*; It is used with us for one that runneth on foot, attending upon a man of honor, 3. E. 4. 5. 24 H. 8. 12. It is written *Henxman*, 6 H. 8. 1.

Henfare, An Amerciament for flight for Murder: *Doomsday*.

Henghen, A Prison, or House of Correction, *Si quis amicus desitutus, vel alienigena ad tantum laborem veniat, in prima accusatione ponatur in Henghen, &c. Leg. Hen. 1. cap. 65.*

Hengwite, Significat quietantiam misericordie de Latrone suspensio absq; consideratione, *Fleta*, lib. 1. cap. 47. See *Hankwit*.

Heneward, A Duty to the King in Cambridge-shire: *Doomsday*.

Herald, **Heraut** or **Barolo**, Italian *Heraldo*, French *Heraut*, quasi *herus altus*. *Vorslegan* thinks it may be derived from two Dutch words, viz. *Here*, exercitus, and *Healt*, pugil magnanimus: As if he should be called *The Champion of the Army*. With us it signifieth an Officer at Arms, whose business is to denounce War, to proclaim Peace, or otherwise be employed by the King in Martial Messages, or other business: The Romans called them Plurally *Feciales*. *Polydore*, lib. 19. describes them thus, *Habent insuper Apparitores ministros, quos Heraldos dicunt, quorum præfatus Armorum Rex vocatur, his belli et pacis nuntii dicuntur, Comitibusq; a Rege factis insignia aptant ac eorum*

funera curant. Nay more, They are the Judges and Examiners of Gentlemens Arms; marshal all the Solemnities at the Coronations of Princes, manage Combates, and such like: There is one and the same use of them with us and the French, whence we have their Name; and what their Office is with them, see *Lupanus*, lib. 1. de *Magist. Francor.* cap. *Heraldi*. There be divers of them with us, whereof three being the chief, are called *Kings at Arms*. And of them *Garter* is the principal, instituted and created by *Henry the Fifth*, *Stowes Annals*, pag. 584: whose Office is to attend Knights of the Garter at their Solemnities, and to marshal the Funerals of all the greater Nobility; as Princes, Dukes, Marquesses, Earls, Viscounts and Barons. And in *Plowden*, in *Keniger* and *Fogassa's Case*, we read that *Edward the Fourth* granted the Office of King of *Heralds* to one *Garter*, *Cum feudis et proficiis ab antiquo*, &c. fol. 12. The next is *Clarentius*, Ordained by *Edward the Fourth*, for he attaining the Dukedom of *Clarence*, by the death of his Brother *George*, whom he beheaded for aspiring to the Crown, made the *Herald*, which properly belonged to the Duke of *Clarence*, a King at Arms, and called him *Clarentius*: His proper Office is to marshal and dispose the Funerals of all the lesser Nobility, as Knights and Esquires through the Realm, on the South-side of *Trent*. The third is *Norroy* or *Norib-roy*, whose Office is the same on the North-side of *Trent* that *Clarentius* hath on this side, as may well appear by his Name, signifying the Northern King, or King of the North parts. Besides these, there be six other properly called *Heralds*, according to their Original, as they were created to attend Dukes, &c. in Martial Expeditions, viz. *Tork*, *Lancaster*, *Somerset*, *Richmond*, *Chester* and *Windsore*. Lastly, There be four other called *Marshals*, or *Pursuivants at Arms*, reckoned after a sort in the number of *Heralds*, and do commonly succeed in the place of the *Heralds*, when they die, or be preferred; And those be *Blue-mantle*, *Rouge-cross*, *Rouge-dragon* & *Portcullis*. The *Feciales* among the Romans were Priests, Nam *Numa Pompilius divini cultus institutionem in obo partes divisit, & ita etiam sacerdotum obo ordines constituit, &c. Septimam partem sacra constitutionis collegio eorum adiecit, qui Feciales vocantur: Erant autem ex optimis domibus, viri electi, &c. quorum partes in eo versabantur, ut fidei publicæ inter populos præfessent, neq; justum aliquod bellum fore censebatur, nisi id per Feciales esset indictum*, *Cornelius Miscel. juris civilis*, lib. 1. cap. 10. num. 12. Kings at Arms are mentioned in Stat. 14 Car. 2. 35. Of these, see more in *Spelmans Glossary*.

Herbage, *Herbagium*, Signifies the Fruit of the Earth, produced by Nature for the bite or mouth of the Cattel. But is most commonly used for a liberty that a man hath to feed his Cattel in another mans Ground, as in the Forest, &c. *Crompt. Jur.* fol. 197. Occurrit frequens pro jure depascendi *Alienum solum ut in Foresta*, says the learned *Spelman*.

Herbenger, From the French *Herberger*, that is, *Hospitio accipere*, signifieth an Officer in the Kings house, that alloteth the Noblemen, and those of the Household their Lodgings, *Kitchin*, fol. 176. uses it for an Inn-Keeper.

Herciebant, From the French *Hercer*, to Harrow, *Arabant et Herciebant ac curiam Domini*,

that is, they did plough and harrow at the Mannor of the Lord, 4. *Inst.* fol. 270.

Hereditaments, *Hereditamenta*, Signifie all such things immoveable, be they corporeal or incorporeal, as a man may have to himself, and his heirs, by way of Inheritance. See 32 *H. 8. cap.* 2. or not being otherwise bequeathed, do naturally, and of course descend to him which is next heir of Blood, and fall not within the compass of an Executor or Administrator as Chattels do. It is a word of large extent, and much used in Conveyances; for by the grant of *Hereditaments*, *Illes*, *Seigniories*, *Mannors*, *Houses* and *Lands* of all sorts, *Charters*, *Rents*, *Services*, *Advowsons*, *Commons*, and whatever may be inherited, will pass, *Co.* on *Lit.* fol. 6. *Hereditamentum est omne quod jure hereditario ad heredem transeat.*

Herefare, Is a going in a Military expedition, a going to a *Warsare*. See *Subsidy*.

Heregeld, See *Harist*.

Heregeld, Is a Tribute or Tax levied for the Maintenance of an Army. See *Subsidy*.

Heriot, See *Harist*.

Heredita or **Heretia**, Denotes a hired Souldier, that departs without Licence, derived from the Saxon *Here*, *exercitus*, and *stien*, to depart, according to *Co.* 4. *Inst.* fol. 128. Whom I rather incline to follow, than him who would in stead of *stien*, to depart; put in *stian*, *scindere*.

Heretico comburendo, Is a Writ that lies against a *Heretick*, who having been once convicted by the Bishop of *Herefie*, and having abjured it, after Relapses into the same, or some other, and is thereupon committed to the Secular Power. *Britton*, lib. 1. cap. 17. saith, That by the Common-Law, such as feloniously burn the Corn or houses of others, Sorcerers and Sorceresses, Sodomitical persons and *Hereticks* should be burnt.

Hebdomas, A Week, derived from *hepta*, seven; as *septimana* from *septem*. *Julius Caesar* divided the year into Twelve Months, each Moneth into four Weeks, and each Week into seven Days, according to the number of the seven Planets. See more of this matter at large, *Skene de verbor.* Signif. verbo *Hebdomas*.

Hermitage, *Heremitagium*, A solitary place, the recess or cell of a *Hermit*. See *Mon.* Ang. 2. par. fol. 339.

Hermitorium, Some Authors have confounded it with *Heremitagium*, but more rightly it may denote the Chappel, or place of Prayer belonging to a *Hermitage*; for so it is said in an old Charter, *Capellam sive Hermitorium*.

Herysar, A Place of Immunity.

Hesta or **Hestha**, May be understood for a Capon, derived from the French *Hesoudeau*, a Capon: *Spelm.* See *Rusca*.

Hestcorne, King *Alfred* in his return out of the North, after a *Victory*, went to *Beverley*, where he gave to God, &c. *Quasdam avenas*, vulgariter dictas *Hestcorne* percipiendas de Dominis & Ecclesiis in illis partibus quas, &c. *Mon.* Ang. 2. par. fol. 367.

Heram, Was anciently a County of it self, and a Franchise, where the Kings Writ went not;

But by the Stat. 14 *Eliz.* 13. *Hexam* and *Hexamshire* shall be within the County of *Northumberland*. See 4. *Inst.* fol. 222. It was also of old a Bishoprick, and in Latine stiled *Episcopatus Huguftaldensis*. See *Monast. Ang.* 2. par. fol. 91.

Hide of Land, *Hida terra*, *Saxonice*, *Hydeland* is a certain quantity of Land, such as might be plowed with one Plough in a year, *Termes de Ley*. By others it is an hundred and twenty Acres: By *Beda*, who calls it *Familiam*; it is as much as will maintain a Family: Others hold it to be fouryard Land. *Crompt.* in his *Fur.* fol. 220. says; It contains a hundred Acres, every Acre in length forty Perches, and in breadth four, every Perch sixteen foot and a half. And again, fol. 222. a *hide of Land* contains a hundred Acres, and eight *bides*, or eight hundred Acres makes a Knights Fee. But *Co.* on *Lit.* fol. 69. says, That a Knights Fee, a *hide*, or Plough-land, a Yard-land, or Oxgang of Land, contain no certain number of Acres. The distribution of *England* by *bides of Land* is very ancient, mention being made thereof in the Laws of King *Ina*, cap. 14. And *Henry* the First, to marry his Daughter to the Emperor, took of every *hide of land* three shillings, *Spelman*. And see *Camb. Brit.* fol. 158.

Hide Lands, *Sunt terra ad hidam seu tectum pertinentes*.

Hide and Gayne, *Old Nat. Brev.* fol. 71. *Co. lib.* 4. *Tirringhams Case*; signifies arable Land, See *Co.* on *Lit.* fol. 85. Of old to gaine the Land, was as much as to till or manure it. See *Gainage*.

Hidage, *Hidagium*, Is an extraordinary Tax to be paid for every *hide of land*. *Bracton*, lib. 2. cap. 6. writes thus of it, *Sunt etiam quadam communes prestationes, quae servitia non dicuntur, nec de consuetudine veniunt, nisi cum necessitas inter venerit, vel cum Rex venerit, sicut sunt hidalgia, coragia & caruagia & alia plura de necessitate, & ex consensu communi totius Regni introducta & quae ad Dominum feudi non pertinent*, &c. This was a frequent kind of taxing as well for provision of Armor, as payments of Money; but especially in the Reign of King *Ethelred*, who when the *Danes* landed at *Sandwich*, taxed all his Land by *bides*, so that every 310 *bides* of Land found one Ship armed, and every eight *bides* found one Jack and one Saddle for the defence of the Realm. And afterwards *William the Conqueror* took of every *hide* throughout *England* six shillings. In the *Terms of the Law*, *Hidage* is taken to be quit of that Tax, which was also called *Hyde-gild*.

Hidell, 1 *H. 7.* cap. 5. Seemeth to signifie a place of Protection, as a Sanctuary.

Hierloome. See *Heyreloome*.

His testibus, These words were anciently added in Deeds after the *In cuius rei testimonium*, and written with the same hand as the Deed, which Witnesses were called, the Deed read, and then their Names entred: And this Clause of *his testibus* in Subjects Deeds continued till the Reign of *Hen. 8.* but now is quite left off, *Co.* on *Lit.* fol. 6.

Hine, A Servant, or one of the Family, but more properly a Servant at Husbandry; and the Master *hine* is he that Oversees the rest, 12 *R.* 2. 4.

Hinefare,

Hinefare, See *Hinefare*, *Si quis occidit hominem Regis et facit heinfarum, dat Regi xx s &c.* Doomsday, tit. *Arcafeld*.

Hinegeld, Significat quietantiam transgressionis illata in servum transgredientem.

Hir riscunda, The division of an Inheritance among the heirs, Goldm. di. *Abio Hirciscundz*. See *Abio mixt*.

Hird, *Domestica familia*, Inter pla. Trin. 12. E. 2. Ebor. 48. M. S.

Hith, See *Hysb*.

Hirt or Hurst, A little Wood. See *Doomsday*.

Hoblers, *Hobellarii*, These were Souldiers lightly armed, and ordinarily horsed, but ready for any quick motion; so that we may not improperly call them *light horse-men*: But afterwards they were Men that, by their Tenure, were tyed to maintain a little light Nag, for the certifying of any Invasion made by Enemies, or such like peril towards the Sea-side; as *Portsmouth*, of whom you may read 18 E. 3. Stat. 2. cap. 7. and 25. E. 3. Stat. 5. cap. 8. and *Camd. Brit.* fol. 272, &c.

Hock-tuesday-money, Was a Duty given to the Land-lord, that his Tenants and Bondmen might solemnise that day on which the English master'd the Danes, being the second Tuesday after Easter week. See Mr. Phillips *Mistaken Recompence*, fol. 39.

Hockettoz or *Hocqueteur*, Is an old French word for a Knight of the Post, a decayed man, 3. par. *Inf.* fol. 175. *Que nul enquerelans ne respoignast soit surpris neu cheson per Hockettours, parens que la veritte ne soit ensue*, Stat. *Ragman*.

Hogenbine, (But more rightly *Third-night even binc*,) Is he that comes Guestwise to an Inn or house, and lies there the third Night, after which he is accounted of his Family in whose house he lyeth; and if he offend the Kings Peace, his Host must be answerable for him, *Bracton*, lib. 3. tra. 2. cap. 10. In the Laws of King Edward, set forth by Lambert, he is call'd *Agenbine*, where you may read more of this matter, Vide *Third-night-avene-binc*.

Hogs-head, Is a measure of Wine or Oyl, containing the fourth part of a Tun or 63 Gallons, Anno 1. R. 3. cap. 13.

Holstings, See *Hustings*.

Hokeday, Otherwise called *Hock-tuesday*, or *Hock-side*, was the second Tuesday after Easter week. In *Monast. Ang.* part. 2. fol. 550. It is said, *Inter alia... senescallus Cur. de la Hele babebis de celerario quinq; albos panes, &c. Et ad le Hokeday totidem*. See *Hock-tuesday-money*.

Holme, *Hulmus*, An Isle or Fenny-ground, according to *Beda* and *Doomsday*, sometimes found in ancient Deeds and Records, Co. on *Lit.* fol. 5. and, as it seems, in a different signification, in *Mon. Ang.* 2. par. fol. 292. *Cum duobus holmis in campis de Wedone*.

Homage, *Homagium*, Probably derived from *homo*, because when the Tenant does this Service to his Lord, he says, *I become your man*; It is also called *Marbood*, Co. on *Lit.* fol. 64. The French word imports as much as *Fides clientelaris*; for in the original Grants of Lands and Tenements by way of Fee, the Lord did not only tye his Tenants to certain Services, but also took a

Submission, with Promise and Oath, to be true and loyal to him as their Lord and Benefactor. This submission was and is called *Homage*, the form whereof you have in the second Statute 17 E. 2. in these words, "When a Free-man shall do Homage to his Lord, of whom he holdeth in chief, he shall hold his hands together between the hands of his Lord, and shall say thus, *I become your Man from this day forth for life, for member, and for worldly honor, and shall owe you my Faith for the Land I hold of you, saving the Faith that I owe unto our Sovereign Lord the King, and to mine other Lords*. And in this manner the Lord of the Fee, for which homage is due, taketh homage of every Tenant as he cometh to the Land or Fee, *Glanvil*, lib. 9. cap. 1. except they be Women, who perform not homage, but by their husbands: yet *Fitzherbert* in his *Nat. Brev.* fol. 157. saith the contrary. Read *Glanvil* more at large of this in the said First, and also the second, third and fourth. The reason of this, *Skene* giveth de verb. Signif. verbo *Homagium*, because Homage specially concerneth Service in War. He saith also, That consecrated Bishops do no homage, but only Fealty; and yet we find the Archbishop of *Canterbury* do homage on his Knees to our Kings at their Coronation; and it hath been held, that the Bishop of *Soder*, in the Isle of *Man*, is Homager to the Earl of *Derby*. And in the *Reg. Orig.* fol. 296. that a Woman taking Livery of Lands holden by Knights-service, must do homage, &c. Concerning the homage of consecrated Bishops, read *Fulbecke*, fol. 20. in these words. By our Law a Religious man may do homage, but may not say to his Lord *Ego devenio homo vester*, because he hath professed himself to be only Gods man; But he may say, *I do unto you homage, and to you shall be faithful and loyal*. See of this *Briston*, cap. 68. Homage is either new with the Fee, or Ancestral, that is, where a man and his Ancestors, time out of mind, have held their Lands by homage to their Lord, whereby the Lord is tyed to warrant the Land unto his Tenant. This homage is used in other Countries as well as Ours, and was wont to be called *Hominium*. See *Hotoman de verbis feudilibus*, verbo *Homo*. *Skene* divided it into *Ligeum* & *non ligeum*, de verbor. Signif. verbo Homage; for the which see *Leige* and *Hotoman*, *disputatione de feudis tertia*. Homage is sometimes used for the Jury in a Court-Baron, *Smith & Rep. Angl.* lib. 2. cap. 27. The reason is because it consisteth most commonly of such as owe homage unto the Lord of the Fee; And these, by the Feudists, are called *Pares Curia*. Of this homage you may read in the 29. Chapter of the *Grand Custumary of Normandy*, and others not used by us. See further in *Hotoman Disputat. de feudis*, pag. 861. Of homage in Scotland read *Skene de verb.* Signif. iii. *Homagium*, to whom you may also add a large Discourse in *Speculo Durandi*, commonly called *Speculator* among the Civilians, tit. *De feudis*. The Steward of the Lord may take Fealty, but not Homage. See the Stat. 12 Car. 2. cap. 24.

Homage Ancestral, Is, where a man and his Ancestors, time out of mind, held their Land of their Lord and his Ancestors by homage. And if such Lord have received homage, he is bound to acquit the Tenant against all other Lords above him of every manner of Service,

and if the Tenant hath done *homage* to his Lord, and is impleaded, and vouches the Lord to warranty, the Lord is bound to warrant him; and if the Tenant lose, he shall recover in value against the Lord so much of the Lands as he had at that time of the Voucher, or any time after. To this effect *Littleton*; upon which *Coke* says, In this example here put, There must be a double Prescription both in the Blood of the Lord and the Tenant; and therefore, I think, there is little or no Land at all at this day holden by *homage Ancestrel*. Yet (as one avers) in the Mannor of *Whitney* in *Herefordshire*, whose Lord is of the same Name, and the Family has continued there many Ages, is one *West* a Tenant, who can prescribe to hold his Land of *Thomas Whitney Esq;* the present Lord, by *homage Ancestrel*.

Homager, One that does, or is bound to do *homage*: As the Bishop of *Sodor*, in the Isle of *Man* is said to be *Homager* to the Earl of *Derby*. See *Homage*.

Homagium respectuando, Is a Writ directed to the Escheator, commanding him to deliver Seisin of Lands to the heir that is of full age, notwithstanding his *homage* not done, which ought to be performed before the heir have Livery, or his Lands, except there fall out some reasonable cause to hinder it, *F. N. B. fol 269*.

Home-soken, But more truly *Ham-soken* and *Ham-foca*, (for the derivation, see *Hamfoken*) Is by *Bract. lib. 3. tra. 2. cap. 23*. thus defined, *Home-soken dicitur in assu domus contra pacem Domini Regis*. It appeareth by *Rastal* in the Title, *Expositiones of words*, That in ancient times some men had immunity to do this; for he defineth *Home-soken* to be an Immunity from Amerciament, for entering into Houses violently, and without Licence; which seemeth to be altogether unreasonable, I rather believe it should be a Power granted by the King to some person, for the punishment of such a Transgression. *Si quis Hamfocam violaverit, jure Anglorum Regi emendet*, 5. Libr. Leg. Canuti, cap. 39. See *Hamfoken*.

Homicide, *Homicidium*, Is the killing of a Man, and it is divided into *voluntary* and *casual*: *Homicide voluntary* is that which is deliberate, and committed of a set-mind, and purpose to kill; and this is either with precedent Malice, or without: The former is Murder, and is a felonious killing through malice prepensed of any person living in this Realm, under the Kings Protection, *West. part 2. Symbol. tit. Indictments, sect. 37. &c. usq; 51*. Where you may see divers subdivisions of this matter. See also *Glanville, lib. 14. cap. 3. Bract. lib. 3. tra. 2. cap. 4. 15. & 17. Britton, cap. 5. 6. 7*. See *Murder, Manslaughter* and *Chance-medley*.

Homine eligendo ad custodiendam peciam signi pro mercatoribus editi, Is a Writ directed to a Corporation, for the choice of a new Man to keep the one part of the Seal, appointed for *Statutes-Merchant*, when the other is dead, according to the Statute of *Alton Burnel*, Reg. Orig. fol. 178.

Homine replegiando, Is a Writ to bail a Man out of Prison; In what Cases it lies, see *F. N. B. fol. 6. Reg. Orig. fol. 77.* and the *New Book of Entries, verbo Homine replegiando*.

Homine capto in Wichehamium, Is a Writ to take him, that hath taken any Bondman or woman, and led him or her out of the Country, so that he or she cannot be replevied according to Law, Reg. Orig. fol. 73. See also *Wicheham*.

Hominatio, *Doomsday. Idem quod Homagium*, Spel Gloss. verb. *Hominatio*

Hondhabend, A derivative from the Saxon *Hond*, that is, a hand, and *babens, having*; and signifies a circumstance of manifest theft, when one is deprehended with the things stolen in his hand, *Bract. lib. 3. tra. 2. cap. 31. & 54*. who also uses *Handberend* for the same, *ibid. cap. 8*.

Hond-peny, *Sint quieti de cheuagio*, *Hond-peny, &c. Priveleg. de Sempringham*. But there is no Declaration made, what is intended by it, *Ideo Quare*.

Honor, *Honor*, Is, beside the general signification, used more especially for the nobler sort of Seigniories, whereupon other inferior Lordships and Mannors do depend, by performance of Customs and Services to those that are Lords over them: And it seems that none were *Honors* originally, but such as belonged to the King, though afterwards given in Fee to Noblemen. The manner of creating these *Honors*, may in part be collected out of the Statutes 34 H. 8. 5. where *Hampton Court* is made an *Honor*. And 33 H. 8. cap. 37, 38. whereby *Ampthill* and *Grafton* be also made *Honors*. And 37 H. 8. cap. 18. whereby the King hath Power given by his Letters Patent, to erect four several *Honors*, of *Westminster*, of *Kingsston* upon *Hull*, *St. Osithes* in *Essex*, and *Dodington* in *Berkshire*: This word is used in the same signification in other Nations. In reading, I have observed divers other *honors* in *England*, of *Aquila*, *Camd. Brit. 231*. Of *Clare* *Idem. 351*. Of *Lancaster*, *Idem. 81*. Of *Tick-hill*, *ibid.* Of *Wallingford*, *Nottingham*, *Bolaine*, *Magna Charta, cap. 31*. Of *West-Greenwich*, *Camd. pag. 239*. Of *Bedford*, *Pupilla oculi, part 5. cap. 22*. Of *Barkhamsted*, *Bro. tit. Tenure, num. 16*. *Wittam, Camd pag. 333*. Of *Plimpton*, *Crompt. Jur. fol. 115*. Of *Crovecure* and *Hagane's fobers*, 32. H. 8. 48. Of *East-Greenwich* in *Kent*, *Windsor*, in *Berkshire*, and *Beaulieu* in *Essex*, 37. H. 8. 88. Of *Peveler* in the County of *Lincoln*, Reg. Orig. fol. 1. besides many other, which we think not fit to name. See *Bakers Chronicle, fol. 117. Inquis. 10 Ed. 2. Co. 4. Inft. fol. 224. &c.*

Honour Courts, Are Courts held within the *Honors* aforesaid, mentioned 33. H. 8. 37. and 37 H. 8. 18.

Honorary Services, Are such as are incident to *Grand Serjeanty*, and annexed commonly to some *Honor*. See 12 Car. 2. cap. 29.

Hontfangenecheff, This should rather have been written *Hondfangenecheff*, and signifies a Thief taken with *Hond-habend*, that is, having the thing stolen in his Hand.

Hornebeame Pollengers, Are Trees so called, that have been usually lopped, and are above twenty years growth, and therefore not rythable, *Flowden, fol. 470. Soby's Case*.

Hornegeld, Is a Compound from the Saxon word *Horn*, *cornu*, and *geld, solutio*, signifying a Tax within a Forest, to be paid for horned Beasts, *Crompt.*

Crompt. Jurisd. 197. And to be free thereof, is a privilege granted by the King unto such as he thinketh good, *Idem ibid.* & *Rastall* in his *Exposition of words*, *Quicumque esse de omni collectione in Foresta de bestis cornutus afficit*, 4. *Inst.* fol. 369. Et sint quieti de omnibus Geldis, & Dane-geldis, & Vol-geldis, & Sene-geldis, & Horn-geldis, &c. *Diploma*, H. 3. *Canonici & Menialibus de Sempingham*. See *Subsidy*.

Hors de son fee, Is an Exception to avoid an Action brought for Rent, issuing out of certain Land by him that pretendeth to be the Lord, or for some Customs and Services; for if he can justify that the Land is without the compass of his fee, the Action falls. *Vide broke*, hoc titulo. See *Disfranch.*

Hospitallers, *Hospitalarii*, were the Knights of a Religious Order, so called, because they built an Hospital at Jerusalem, wherein Pilgrims were received. To these Pope Clement the Fifth transferred the Templers, which Order, by a Council held at Vienna in France, he suppressed for their many and great Offences. The institution of their Order was first allowed by Pope *Gregorius* the Second; Anno 1118; and confirmed here by Parliament, and had many privileges granted them, as Immunities from payment of Tythes, &c. you shall find their Privileges reserved to them by *Mag. Charta*, cap. 37. and you shall see the Right of the Kings Subjects vindicated from the Usurpation of their Jurisdiction, by the Statute of *Westm.* 2. cap. 43. Their chief abode is now in Malta, an Island given them by the Emperour Charles the Fifth, after they were driven from Rhodes by *Solyman* the Magnificent Emperour of the Turks; and for that they are now called *Knights of Malta*. They are mentioned 13 E. 1. cap. 43. and 9 H. 3. cap. 37. *Abb. Wal. fingham* in Hist. Ed. 2. and *Stowes Annals*, *ibid.* All the Lands and Goods of these Knights here in England were given to the King, by 32 H. 8. cap. 34. See *Mon. Ang.* 2. par. fol. 489.

Hofsteler, *Hofstallarius*, Cometh of the French *Hofsteler*, i. *Hofpes*, and signifieth with us those that otherwise are called *Innkeepers*, 9 E. 3. Stat. 2. cap. 11. We now usually term those that in the Stable look to the Guests Horses in an Inn *Hofstellers*.

Horchpot, *In partem possio*, Is a word brought from the French *Huispot*, among the Dutch it signifies flesh cut into pieces, and sodden with Herbs or Roots, not unlike that which the Romans call'd *Farraginem*.---*Festus*. But *Littleton* saith, That literally it signifies a pudding mixed of divers ingredients, but by a Metaphor, signifieth a Commixture, or putting together of Lands of several Tenures, for the equal division of them, fol. 55. For example. A man seized of thirty Acres of Land in Fee, hath issue two Daughters, and gives with one of his Daughters, to a Man that marries her, ten Acres of the same Land in *Frank-marriage*, and dies seized of the other twenty Acres. Now if she that is thus married will have any part of the twenty Acres whereof her Father died seized, she must put her Lands, given in *Frank-marriage*, in *Horchpot*, that is, she must refuse to take the sole Profits of the Lands given in *Frank-marriage*, and suffer the Land to be commixt, and mingled together with the

other Land whereof her Father died seized; so that an equal division may be made of the whole between her and her Sister, and thus for her ten Acres she shall have fifteen, else her Sister will have the whole twenty of which her Father died seized. See *Co. on Lis.* lib. 2. cap. 12. and *Britton*, fol. 119. There is also in the Civil Law *Collatio bonorum* answerable to this; whereby if a Child advanced by the Father, do after his Fathers decease challenge a Childs part with the rest, he must cast in all that formerly he had received; and then take out an equal share with the others.

Housetbote, A compound of *houfe* and *bote*, i. *compensatio*; signifies *Esflower*, or an allowance of necessary Timber out of the Lords Wood, for the repair and support of a House or Tenement. [And this belongs of common right to any Lessee for years or for life: But if he take more than is needful, he may be punished by an Action of Waste.] *Housetbote* *Wyes*, *Co. on Lis.* fol. 41. Is two-fold, viz. *Esflowerium edificandi* & *ardendi*.

House-robbing or **Houfe-breaking**, Is the robbing of a man in some part of his House, or his Booth or Tent, in any Fair or Market; and the Owner, or his Wife, Children or Servants being within the same; for this is Felony by 23 H. 3. cap. 1. and 3 E. 6. cap. 9. And since it is made Felony, though none be within the House, Booth, or Stall, by 39 Eliz. 15. See *Burglary*, and *Waste*, part 2. *Symb. tit. Indictments*, fol. 67.

Huegeld, Signifies *quidam transgressionis illata in servum transgredientis*; *Fleta*, lib. 1. cap. 47. It may be thought in this place of *Fleta* to be misprinted for *Hinegeld*, which see, & *quere*.

Hopcomb, Signifies a Valley in *Doomsday Book*, so also do *Hope*, *Howgh* and *Hough*.

Houfhas, A Service to the King in *Cheshaw*, says *Doomsday*; but I think rather it should be written *Hassa*, because it is supposed a Military Service.

House, *Domus*, In a House four things are necessary, 1. *Habitatio hominis*. 2. *Delectatio inhabitantis*. 3. *Necessitas luminis*. 4. *Salubritas aeris*. For any hurt or hindrance to the first, third, and fourth of these an Action lyeth: For *Prohibetur ne quis faciat in suo, quod nocere possit alieno*. The house of every man is to him as his Castle and Fortrefs, as well for his defence against injury and violence, as for his repose; according to the Maxim, *Domus sua cuique est tutissimum refugium*. See *Co. 5. Rep. Semaines Case*. The privilege that the Law gives to houses for the habitation of men is great; for first, it ought to have the precedency in a *Præcipe quod reddat* before Lands, Meadows, Pastures and Woods. Secondly, The house of a man hath privilege to protect him against an Arrest, by force of a Process of the Law, at the Suit of the Subject, *Co. Rep. 11. Bowles Case*. Thirdly, Those that dig for *Salt-peter*, shall not dig in the *Mansion-house* of any Subject without his assent; for then He, nor his Wife, nor Children, cannot be in safety, nor his Goods preserved from Thieves. 4. He that kills a man which will rob and spoil him in the house, shall forfeit nothing.

Hue and Cry, *Hutesum* & *clamor*, Is derived of two French words *Huer* and *Crier*, both signifying

signifying to shout or cry aloud. *Manwood* in his *Forest Law*, cap. 19. num. 11. saith, That *Hue* is Latine, [Est vox dolentis, as signifying the Complaint of the Party,] and *Cry* is the pursuit of the Felon upon the High-way upon that Complaint; for if the party robbed, or any in the Company of one robbed or murdered, come to the Constable of the next Town, and will him to raise the *Hue and Cry* [that is, make the Complaint known, and follow the Pursuit,] after the Offendor, describing the Party, and shewing as near as he can which way he went; the Constable ought forthwith to call upon the Parish for Aid in seeking the Felon, and if he be not found there, then to give the next Constable notice, and the next, until the Offendor be apprehended, or at least until he be thus pursued unto the Sea-side. Of this read *Bracton*, lib. 3. traB. 2. cap. 5. *Smith de Rep. Anglor.* lib. 2. cap. 20. and the Stat. 19 E. 1. of *Winchester*, cap. 3. & 28 E. 3. 11. & 27 E. 12. The Normans had such a pursuit with a Cry after Offendors, which they call'd *Haro*, whereof you may read the *Grand Customary*, cap. 54. and it may probably be derived from *Harer*, *flagitare*. *Hue* is used alone, 4 E. 1. Stat. 2. This the Scots call *Hutchum*, and *Stene de verbi*: Signif. verb. *Hutsum*, saith, It is deduced from the French *Oyer*, i. *Audire*, (or rather *Oyes*) being a Cry used before a Proclamation; The manner of their *Hue and Cry* he thus describeth, If a Robbery be done, a Horn is blown, and an Out-cry made, after which, if the Party fly away, and not yield himself to the Kings Bayliff, he may be lawfully slain, and hanged upon the next Gallows. Of this *Hue and Cry*, see *Crompt. Just. of Peace*, fol. 160. and in *Rot. Claus.* 30 H. 3. m. 5. We find a Command to the Kings Treasurer, to take the City of London into the Kings Hand, because the Citizens did not secundum Legem & consuetudinem Regni raise the *Hue and Cry* for the death of *Guido de Aretio*, and others who were slain.

Huers. See *Conders*.

Huiffier. See *Officer*.

Hulme. See *Holme*.

Hundred, *Hundredum Centuria*, Is a part of a Shire properly so called, because it contained ten Tythings, called in Latine *Decennas*, either because at first there were a hundred Families in each Hundred, or else found the King a hundred able Men for his Wars. These were first Ordained by King *Alfred* the 29th King of the *West Saxons*, *Stowes Annal*, Pag. 105. Of these *Lambert* in his Explication of Saxon words, verbo *Centuria*, saith, *Alfredus Rex*, ubi cum *Guibruno Daco* fadu inierat prudentissimum illud Olim a *Jesbrone Mesi* datum consilium, Angliam primum in *Satrapias Centurias* & *Decurias* partitius est. *Satrapiam*, sive a *schyran* (quod partiri significat) nominavit; *Centuriam* Hundred & *Decuriam*, Tything five *Tienmantale*, i. *Decemvirale collegium* appellavit atq; iisdem nominibus vel bodie vocantur, &c. And again afterward, *Decrevis cum porro Aluredum libera us conditionis quisq; in centuriam ascriberetur aliquam atq; in Decemvirale aliquod consisteretur collegium*, &c. This form of dividing Counties into *Hundreds*, for better Government, King *Alfred* had from Germany, where *Centa* or *Centena* is a Jurisdiction over a hundred Towns, and contains the punishment of Capital Crimes. Hence may be learnt the

original and old use of *Hundreds*, which still keep the Name and remain in some sort the same, for their several Services in divers respects, but their Jurisdiction is transferred to the County Court, some few excepted, which have been by Privilege annexed to the Crown, or granted to some great Subject, and so remain still in the nature of a Franchise. And this has been ever since the Stat. 14 E. 3. Stat. 1. cap. 9. whereby these *Hundred Courts* formerly farmed out by the Sheriff to other men, were reduced all, or the most part, to the County-Court, and so remain at present, so that where you read now of any *hundred Courts*, you must know, that they be several Franchises, wherein the Sheriff hath not to deal by his ordinary Authority, unless they of the *Hundred* refuse to do their duty. See *West Symbol.* part. 1. lib. 2. f. 288. See *Turne* in the *Terms of the Law*. This word *Hundredum* is said to be quit of money or Customs due to the *Hundredors*.

Hundredors, *Hundredarii*, Are Men empannelled, or fit to be empannelled of a Jury upon a Controversie, dwelling in the *Hundred* where the Land in question lies, *Crompt. Jur.* fol. 217. and 35 H. 8. 6. It signifies also him that hath the Jurisdiction of a *Hundred*, and holdeth the *hundred Court*, 12 E. 1. cap. 38. 9 E. 2. Stat. 2. & 2 E. 3. cap. 4. and sometimes it is used for the Bayliff of an *Hundred*. *Hornes Mirror of Justices*, lib. 1. cap. del Office del Coroner.

Hundred-Alagh, Signifies the *hundred Court*, from which all the Officers of the Kings Forest were by the Charter of King *Canutus* cap. 9. See *Manwood*, vide etiam *Warfco*.

Hundred-peny, *Est autem pecunia quam subditi causa vicecomes olim exigebat ex singulis Decuriis sui Comitatus, quas Testingas Saxones appellabant. Sic ex Hundredis Hundred-peny*, *Spehm.* Pence of the *hundred*, *Cam. Brit.* fol. 223.

Hundred-setena, *Et habent Sakam & Socam*, on *Strond* & on *streame*, on *Wode* & on *feld*, *Grithbrice*, *Hundred-setena*, *Adas & Ordalas*, &c. *Carta Edgari Regis*, *Man. Glasf.* Anno 12 Regni, *Mon. Ang.* 1 par. fol. 16. This word *Setena* in Composition signifies Inhabitants.

Hurf, A little wood, *Doomsday*. See *Hirf*.

Huscarle, Is as much to say as *Houfecarle*, that is, a Domestick or Menial Servant; the word is often found in *Doomsday*, where we find the Town of *Dorchester* paid to the use of *Houfecarles* one Mark of Silver. See *Karles*.

Hus & Hant, *Quidem H. P. captus per quereimoniam mercatorum Flandria & imprisonatus effert Domino Regi Hus & Hant in plegio ad standum recto & ad respondendum*, &c. in curia Regis apud *Shepway*, *Pla. cur. Regis*, 27 H. 3. Rot. 9. *Quare annon sit commune plegium sicut Johannes Doe & Richardus Roe*. See 4. *Instit.* fol. 72.

Huseaus, Of the French *Houfseau*, i. *ocrea*, a kind of Boot, or somewhat made of course Cloth, and worn over the Stocking; a *Buskin*, or as the vulgar call it a *Spatterdash*.

Husfaine, Is he that holdeth House and Land, *Bracton*, lib. 3. traB. 2. cap. 10. hath these words, *Et in Franco plegio esse debet omnis qui terram tenet & domum qui dicuntur Husfaine, & etiam alii, qui illis deserviant et dicuntur Folgheres*, &c. Some have corruptly written it *Hurderefest* & *Hurdeseft*, but

but more truly *Heardseffe*; which see in *Glosse in decem scriptor.*

Huffeling people, The Parishioners of *Leominster*, in a Petition to King *Edward* the Sixth, set forth that in their Town there were to the number of 2000 *Huffeling people*, &c. that is 2000 Communicants, for *Huffel* in the Saxon Tongue signifies the Holy Sacrament.

Huffings, *Huffingum*, Derived from *Hus* *Domus*, and *Thing*, *Causa*, is as much as *Domus casuarum*, antiquissima & celeberrima Londoniarum *Civitatis curia suprema*, 11 M. 7. 21. F. N. B. fol. 23. 9 E. 1. cap. unico 10. Of this Antiquity, we find this mention in the Laws of King *Edward* the Confessor, *Debet etiam in London qua est caput Regni & Legum, semper curia Domini Regis singulis septimanis die Luna Huffingis sedere & teneri. Fundata enim erat olim & edificata ad instar & ad modum & in memoriam veteris magna Troja, et usq; in bodicnum diem, Leges & jura et dignitates, liberales, regisq; consuetudines antiqua magna Troja in se continet—et consuetudines suas una semper invariabilitate conservat.* See *Taylor's Hist. Gervatind*, pag. 55. This Court is held before the Lord Mayor and Aldermen of *London*; an Error or Attaint lies there of a Judgment, or false Verdict in the Sheriffs Court, as appears by F. N. B. fol. 23. Other Cities and Towns also have had a Court of the same Name, as *Winchester*, *Lincoln*, *Tork* and *Shepes*, and others, where the Barons or Citizens have a Record of such things as are determinable before them, *Flota*, lib. 2. cap. 55. Stat. 10. E. 2. cap. unico 4. *Inst.* fol. 247. and *Gloss. in decem scriptores* on this word.

Hyde of Land. See *Hide*.

Hydegild, A Ransome paid to save ones *Skin*, viz. that it be not beaten. Also the same with *Hidage*.

Hyth, A Port or little Haven to lade or unlade Wares at, as *Queen-hyth*, *Lamb-hyth*, &c. *New Book of Entries*, fol. 3. & *Mon. Ang.* 2. par. fol. 142. says,—*De tota Medietate Mytha sua in, &c. cum libero introitu et exitu.*

I.

I Hac litera est etiam verbum seu rectius pronomen, scilicet ego unde derivatur possessivum (*meus*) ut ab altero pronomine, (viz. tu, tuus) in English *Mine* and *Thine*; or as we use *Meum* and *Tuum*, the proper guides of Right; and whose being misunderstood, hath been the ground of all Quarrels.

Jacke, *Olim Wambasium*, A kind of defensive Coat worn by Horsemen in War, not made of solid Iron, but many Plates fastned together, which some by Tenure were bound to find upon an Invasion, See *Hidage*.

Jactibus & Jectibus, A Latine word signifying him that loseth by default, *Placitum suum neglexerit & jactivus exinde remansit*, *formul. Selen.* 159.

Jamaica, Is an American Island, lying on the South of *Cuba*; in length from East to West fifty Leagues, and in breadth twenty, the middle

under the eighteenth degree of Northern Latitude: It was in part taken from the *Spaniards* by the *English* in the year 1655. and is mentioned in the Stat. 15 Car. 2. cap. 5.

Jamaica-wood, Mentioned 15 Car. 2. cap. 5. Is a kind of speckled wood, of which are made Cabinets, called there *Granadillo*. The Tree (as they say) is low and small, seldom bigger than a mans Leg.

Jampnum, Furz or Gorse; also a gorsie Ground, *Cro.* 1. part. fol. 179. a word much used in Fines, and the name seems to derive it self from the French *Jaulne*, i. yellow, because the Blossoms of it are of that colour, Co. on *Lit.* pag. 5. says *Jampna*, signifies a waterish place. *Manwood* in his *Forest Law*, cap. 25. num. 3. says, No man may cut down Furze or Whins, within the Forest without good Licence.

Jatte, Any great Earthen Pot, we commonly call a Vessel of Oyl, containing twenty gallons a *Jatt*.

Jarrocke, 1 R. 3. cap. 8. Is a kind of Cork so called, by this Statute prohibited to be used in the dying of Cloth.

Identitate nominis, Is a Writ that lies for him, who upon a *Capias* or *Exigent* is taken and committed to Prison for another man of the name, whereof see the form, and farther use in F. N. B. fol. 267. See *Reg. Orig.* fol. 194.

Ides, *Idus*, Are eight days in every month so called, in *March*, *May*, *July* and *October*, they begin at the eighth day of the month, and continue to the fifteenth; in the rest they begin at the sixth and end at the thirteenth. But here observe, that only the last day is called the *Ides*, the first being termed the eighth *Ides*, the second the seventh, that is, the eighth or seventh before the *Ides*, and so of the rest, and therefore when we speak of the *Ides* of such a month, we must understand it of the fifteenth or thirteenth day of that month. See *Calendr.*

Idiot, Is a word in Greek properly signifying a private man, who has no publick Office. Among the Latines it is taken for *illiteratus*, *imperitus* and in our Law for *non compos mentis*, or a natural Fool. The words of the Statute, 17 E. 2. cap. 9. are *Rex habebit custodiam terrarum fatuorum naturalium*, whereby it appears he must be a natural Fool, that is, a Fool à nativitate: For if he were once wise, or became a Fool by chance or misfortune, the King shall not have the custody of him, *Stamf. Prerog.* cap. 9. F. N. B. fol. 232. If one have understanding to measure a yard of Cloth, number twenty, rightly name the days of the week, &c. he shall not be counted an *Idiot*, or natural Fool, by the Laws of the Realm. See 4 *Rep. Beverlhes Case*.

Idiota inquirenda vel examinanda, Is a Writ to the Escheator or Sheriff of any County, where the King hath notice that there is an *Idiot* naturally born, so weak of understanding, that he cannot govern or manage his Inheritance, to call before him the Party suspected of *Idioty*, and examine him. And also to inquire by the Oaths of twelve men whether he be sufficiently witted to dispose of his own Lands with discretion or not, and to certify accordingly into the Chancery; for the King hath the Protection of

of his Subjects, and by his Prerogative the Government of their Lands and Substance that are naturally defective in their own discretion, Stat. de Prærog. Regis, edit. 17 E. 2. cap. 8. whereof read *Stamf. Prærog. cap. 9.* and of this Writ read *F.N.B. fol. 232.* and *Reg. Orig. fol. 267.*

Jeman, Sometimes used for Yeoman, as by this following, *Sciatis, &c. Quid ego J. S. de B. in com. H. Jeman dedi, &c. Dat. 10. Jan. 9 H. 6.*

Jesofayle, Is a compound of three French words *J'ay faille*, i. *ego lapsus sum*, and in a legal sense denotes an over-sight in pleading, touching which you have a Statute 32 H. 8. 30. whereby it is Enacted, That if the Jury have once past upon the Issue, though afterward there be found a *Jesofayle* in the pleading, yet Judgment shall likewise be given according to the Verdict of the Jury. See *Bro. tit. Repleader*. The Author of the *New Terms of Law* saith, That a *Jesofayle* is, when the Parties to any Suit have in pleading proceeded so far, that they have joyned Issue, which shall be tried, or is tried by a Jury, and this Pleading or Issue is badly pleaded or joyned, that it will be Error if they proceed: Then some of the said Parties may, by their Counsel, shew it to the Court as well after Verdict given, and before Judgment, as before the Jury be charged; the shewing of which Defects, before the Jury charged, was often, when the Jury came into Court to try the Issue, then the Counsel which will shew it, shall say, *This Inquest you ought not to take*; and if it be after Verdict, then he may say, *To judgment you ought not to go*; and because of this many delays grew in Suits, for the redress of which divers Statutes were made, viz. 32 H. 8. 30. before-mentioned, and others in Queen Elizabeth and King James his Days, viz. 18 Eliz. 14. 21 Jac. 13. yet the fault little amended.

Jessen, Jexon and Jotson, From the French *Jetter, ejicere*, is any thing thrown out of a Ship, being in the danger of wreck, and by the Waves driven to the shore. See *Flosson, Co. lib. 5. fol. 106.*

Jews, Judæi. See *Judaism*, anciently we had a Court of the Justices assigned for the Government of the Jews. See 4. Inst. fol. 254. *Rex—Vic. Wigor. salutem. Præcipimus tibi quod clamari et observari facias per totam Ballivam tuam, quod omnes Judæi deferant in superiori indumento suo ubicumq; ambulaverint vel equitaverint infra villam vel extra quasi duas tabulas albas in pectore factas de linco panno vel de pergameno, ita quod per hujusmodi signum manifestè possint Judæi, a Christianis discerni. T. comite apud Oxon 30. Martii claus. 2 H. 3. p. 1. 10. in Dorso.*

Agnitegium. See *Curfew*.

Ignoramus, Is a word properly used by the Grand Inquest, impannelled in the Inquisition of Causes criminal and publick, and written upon the Bill, when they mislike their Evidence as defective, or too weak, to make good the Presentment; the effect of which word so written is, that all farther enquiry upon that Party for that fault is thereby stopped, and he delivered without further answer. It hath a resemblance of that ancient Custom of the Romans, where the Judges, when they absolved a person accused, did write *A.* upon a little Table provided for that purpose, i. *Absolvimus*; if they judged him

guilty, they writ *C. id est, condemnamus*; if they found the cause difficult and doubtful, they writ *N. L.* that is, *Non liquet*. *Asconius Redianus in oratione pro Milone, Alexander ab Alexandro, Genial. dierum, Lib. 3. cap. 141.*

Ikenild-street, Is one of the four famous ways that the Romans made in England, called *Stratum Icenorum*, because it took beginning at *Icenis*, which were the People that inhabited Norfolk, Suffolk, and Cambridgeshire, *Camd. Brit. fol. 343. Leg. Edw. Conf. cap. 12.* See *Walsing. street*.

Illeivable, That may or cannot be levied, and therefore *Nihil* is a word set upon a Debt *Illeivable*.

Imbargo, A stop or stay, most commonly upon Ships by publick Authority, 18 Car. 2. cap. 5.

Imbezle or Imbezzl, To waste, scatter and consume; as if a person intrusted with Goods waste and diminish them, we say, He hath *imbezled* the Goods, 14 Car. 2. cap. 31.

Imbracery. See *Embracery*.

Imparlanee, *Interlocutio vel interlocuella*, Is a motion made in Court upon the count of the Demandant by the Tenant, or Declaration of the Plaintiff by the Defendant, whereby he craveth Respite, or any other day to put in his Answer. See *Bro. tit. Continuance*. See also *Dies datur*. This *Imparlanee* is either general or special; Special is with this Clause, *Salvis omnibus advantageis tam ad jurisdictionem curia quam breve & narrationem*, *Kitchin, fol. 200.* General, is made at large, without inserting that or any other like Clause. See *Emparlanee*.

Imparsonage, As Parson *imparsones*, *Personas imparsonata*, is he that is inducted, and in possession of a Benefice, *Dyer, fol. 40. num. 72.* says a Dean and Chapter, are Parsons *imparsones* of a Benefice appropriate unto them.

Impeachment of Wast, *Impetitiis vasti*, Cometh of the French *Empeschment*, i. *impedimentum*, and signifies a Restraint from committing of Wast upon Lands and Tenements. See *wast*. And therefore he that hath a Lease without *impeachment of Wast*, hath by that a property or interest given him in the houses and Trees, and may make wast in them without being impeached for it, that is, without being questioned, or demanded any recompence for the wast done. See *Co. lib. 11. Bowles Case, fol. 82.*

Impediens, *Hæc est finalis concordia facta in curia Domini Regis apud Westm. in Officibus sancti Hillarii, Anno Regni Regis Henrici filii Regis Johannis septimo coram, &c. inter Willielmum de Mohun querentem & Willielmum Bruere impediens, &c.* Where *impediens* is used for *Defensentem* or *Desorciantem*.

Impetration, *Impetratio*, An obtaining by Request or Prayer: It is used in our Statutes for the pre-obtaining of Benefices, and Church-Offices in England from the Court of Rome, which did belong to the disposition of the King, and other Lay-Patrons of this Realm; the penalty whereof was the same with Provisors, 25 E. 3. See 38 E. 3. Stat. 2. cap. 1.

Impierment, 23 H. 8. 9. Signifies as much as impairing or prejudicing; For the words of the Statute are, *To the great impediment and diminution of their good names.*

Imple-

Implements, Cometh either of the French word *Employer*, to employ; or the Latine *Impleo*, to fill up, and is used for all things necessary for a Trade, or furniture of a Household: And in that sense you shall often find the word used in Wills, and Conveyances of moveables.

Implead, From the French *Playder*, to sue, arrest, or prosecute by course of Law.

Impost, Is a French word signifying Tribute, and derived of the Verb *Imposer*; i. *injungere*, and signifieth the Tax received by the Prince, for such Merchandise as are brought into any Haven within his Dominions from foreign Nations, 31 Eliz. 5. It may in some sort be distinguished from Custom, because Custom is rather that profit the Prince maketh of Wares shipped out; yet are they frequently confounded.

Imprimerie, A Print, Impression; also the Art of Printing, and likewise a Printing-house, Anno 4. Car. 2. cap. 33.

Impropriation, Of which there are in England 3845. See *Appropriation*

Improvement. See *Approve*.

Imprisonment, *Imprisonamentum*, Is the restraint of a mans Liberty, whether it be in the open Field, or in the Stocks, or Cage in the Streets, or in a mans own House, as well as in the Common Gaol. And in all these places the Party so restrained, is said to be a Prisoner, so long as he hath not his Liberty freely to go at all times, to all places whither he will, without Bail or Mainprise.

In alto & imo, The same with *Alto* and *Basso*, which see.

Inbozth and Outbozth, Saxon. *Vide Camden Britan. in Outadinu*, Where he says, speaking of Edelingham, the Birony of Patrick Earle of Dunbarre, which also was Inborow and Outborow between England and Scotland, as we read in the Book of Inquisitions, that is, (as he believes) he was to allow and observe in this part the ingress and egress of those that travelled to and fro between both Realms; for English-men in ancient time called in their Language an *Entry* and *Fore-court* or *Gate-house*, Inborow.

In casu consimili, Is a Writ, See *Casu consimili*.

In casu proviso, Is a Writ. See *Casu Proviso*.

Inchanter, *Incantator*, Is he that by Charms or Verses Conjures the Devil. The Ancients called them *Carmina*, because in those days their Charms were in Verse, 3. part Iust. fol. 44.

Inchantress, *Incantatrix*, Is a Woman that uses Charms and Incantations. See *Inchanter*.

Incident, *Incidents*, Signifies a thing necessarily depending upon another as more principal. For example, A Court Baron is so incident to a Mannor, and a Court of Pypowders to a Fair, that they cannot be severed by Grant; for if a Mannor or Fair be granted, these Courts cannot be severed, *Kitchin*, fol. 36. See *Co. on Lit.* fol. 151.

Incroch, *Incrociare*. See *Encroachments*. Ad-

mirals and their Deputies do *incroch* to themselves Jurisdictions, &c. 15 R. 2. cap. 4.

Incumbent, Is a derivative from the Latine Verb *Incumbo*, to mind diligently, and is a Clerk resident on his Benefice with Cure, *Co. on Lit.* fol. 119. and called *Incumbent* of that Church, because he doth or ought to bend his whole study to discharge his Cure, 10 H. 6. 7. and 1 C. 2 P. C. M. cap. 17.

Indecimable, *Indecimabilis*, That is not tytheable, or ought not to pay Tythe, 2. par. Inst. fol. 490.

Indenture, *Indentura*, Is a Writing comprising some Contract between two, and being indented in the top answerable to another, that likewise containeth the same Contracts: This the Greeks call'd *συνταγμα* or *συνταγμα* which the Civilians have defined to be *Scriptura inter creditorem & debitorem indentata in cuius scissura litera capitalibus hac dictio συνταγμα*, or plurally *τὰ συνταγμα*, scribitur; and it differs from *συνταγμα* quia hoc manu unius tantum puta debitori scribitur & penes debitorem relinquitur. *Princ. constitut. de Offic. archidiano*, cap. prim. verbo in scriptis. It differs from a Deed-Poll, which is a single Deed unindented, *Co. on Lit.* fol. 229.

Indefeasible, That cannot be defeated or made void, as a good and indefeasible Estate.

Indefensus, One that is impleaded, and refuseth to answer, *M. S. de temp. E.* 3.

Indicavit, Is a Writ or Prohibition that lyeth for a Patron of a Church whose Clerk is Defendant in Court-Christian, in an Action of Tythes commenced by another Clerk, and extending to the fourth part of the Church, or of the Tythes belonging to it; for in this case the Suit belongeth to the Kings Court by the Stat. *Westm.* 2. cap. 5. Wherefore the Patron of the Defendant being like to be prejudiced in his Church and Advowson, if the Plaintiff obtain in the Court-Christian, hath this means to remove it to the Kings Court, *Reg. Orig.* fol. 35. See *Old Nat. Brev.* fol. 31. and *Britton*, cap. 109.

Indictor, Is he that indicteth another for any Offence, 1 E. 3. cap. 11. And *Indictor* is he that is indicted, 21 Jac. cap. 8.

Indicament, *Indicamentum*, See *Endicement*.

Indivisum, Is used for that which Two hold in Common, without Partition, *Kitchin*, fol. 241. in these words, He holds *pro indiviso*, &c.

Indorsement, *Indorsamentum*, Is any thing written on the back of a Deed, as a Condition written on the back of an Obligation is commonly called *An Indorsement*, *West. Symbol.* part 2. sect. 157.

Induction, *Inductio*, A leading into: It is most commonly taken for the giving possession to an Incumbent of his Church, by leading him into it, and delivering him the Keys, by the Commissary, or Bishops Deputy, and by his ringing one of the Bells, *Croke*, *Rep.* 3. part fol. 258.

In esse, 21 Jac. 2. *In being*: The learned make this difference between things in *esse*, and things in *posse*, as a thing that is not; but may be, they say, Is in *Possesse*, or *Potentia*; but a thing apparent and visible, they say, Is in *esse*, that is, has

a real being, *eo instanti*, whereas the other is casual, and but a possibility.

Infang alias **Infeng**, *Significat quietantiam prioris prise ratione convicii*, *Fleta*, lib. 1. cap. 47.

Infangthese, **Vinfangthese** or **Infangtheof**, Is compounded of three Saxon words; the Preposition *In*, *fang* or *fong*, to take or catch, and *ibese* a Robber: It signifieth a Privilege or Liberty granted unto Lords of certain Mannors to judge any Thief taken within their Fee. *Bracton*, lib. 3. traſt. 2. cap. 35. ſaith, *Dicitur Infangtheof latro captus in terra alicujus de hominibus ſuis propriis, ſeiſus Latrocinio. Utiangtheſe vero dicitur latro extraneus, veniens aliunde de terra aliena & qui captus fuit in terra ipſius, qui tales habet libertates, &c.* In the Laws of King Edward the Conf. ſet out by Mr. Lambert, cap. 26. you have it thus deſcribed, *Infangtheſe, juſtitia cognofcentis latronis ſua eſt, de homine ſuo, ſi captus fuerit ſuper terram ſuam: Illi vero qui non habent has conſuetudines eorum juſtitia Regis reſtium faciant in Hundredis, &c.* The definition hereof ſee alſo in *Brifton*, fol. 90. and *Rog. Hovenden*, part. poſter. ſuor. annal. fol. 345. And *Skene de verb.* Signifi. who writeth of it at large, reciting diverſity of Opinions. Touching this, and **Outfangtheſe**, *Fleta*, lib. 1. cap. 47. ſays, *Infangtheſe* (for ſo he write: it) *dicitur latro captus in terra alicujus, ſeiſus aliquo latrocinio de ſuis propriis hominibus*, Anno 1 & 2 P. & M. cap. 15.

In forma pauperis, When any man that hath a juſt cauſe of Suit either in the Chancery, or any other the Courts of Common-Law, will come either before the Lord Keeper, Maſter of the Rolls, either of the chief Juſtices, or chief Baron, and make Oath, that he is not worth five pounds, his Debts paid, either of the ſaid Judge: will in his own proper Court admit him to ſue in *forma Pauperis*, and he ſhall have Council, Clerk or Attorney aſſigned to do his buſineſs, without paying any Fees.

Informatio. See **Enditement**. **Information** for the King, *Informatio pro Rege*, is the ſame that for a common perſon we call a Declaration, and is not always done directly by the King, or his Attorney, but ſometimes by another, *qui ſequitur tam pro Domino Rege quam pro ſeiſo*, upon the breach of ſome penal Law or Statute, where in a penalty is given to the Party that will ſue for the ſame.

Informatus non ſum, or more truly **Non ſum Informatus**, Is a formal Answer made of courſe by an Attorney, that is commanded by the Court to ſay, what he thinketh good in defence of his Clyent, who being not inſtructed to ſay any thing material; ſays, He is not informed, by which he is deemed to leave his Clyent undefended, and ſo Judgment paſſeth for the adverſe Party. See the *New Book of Entries*, tit. *Non ſum informatus*, and Judgment 12.

Informet, **Informator**, Is any one who informs or proſecutes in any the Kings Courts of Common Law, viz. Exchequer, Kings Bench, Common-Pleas, Aſſiſes or Seſſions; thoſe that offend againſt any Law, or penal Statute; Theſe, in ſome caſes, are called *Promoters*; the *Civilians* term them *Delatores*.

Ingreſſu, Is a Writ of Entry, whereby a man ſecketh Entry into Lands or Tenements: It lies in many caſes, and hath many ſeveral forms. See **Entry**. This Writ is alſo call'd in particular, *Præcipe quod reddat*, becauſe thoſe be formal words in Writs of Entry. The Writs, as they lie in divers Caſes, are theſe, ſet down in the *Old Nat. Brev. viz. Ingreſſu ad Terminum qui præterit*, fol. 121. *Reg. Orig.* fol. 227. which lyeth where the Lands or Tenements are let to a man for term of years, and the Tenant holdeth over his term *Ingreſſu dum non ſuit compos mentis*, *Reg. Orig.* 218. which lies when a man ſelleth Land or Tenement, being out of his wits, &c. *Ingreſſu dum ſuit infra ætatem*, *Old N. B.* fol. 123. *Reg. Orig.* fol. 228. lies where one under age ſells his Lands, &c. *Ingreſſu ſuper diſſeiſina in le quibus*, *Old N. B.* 125. *Reg. Orig.* 229. lies where a man is diſſeiſed, and dyeth, tor his Heir againſt the Diſſeiſor. *Ingreſſu in le Per*, *Old Nat. Brev.* 126. *Reg. Orig.* fol. 229. *Ingreſſu ſur cui in vita*, *Vet. N. B.* 128. *Reg. Orig.* 230. both which ſee in **Entry**. *Ingreſſu cauſa matrimonii prælocuti*, *Vet. N. B.* fol. 130. *Reg. Orig.* 233. which ſee in **cauſa Matrimonii prælocuti**. *Ingreſſu in caſu proviſo*, *Vet. N. B.* 132. *Reg. Orig.* 235. which ſee in **caſu proviſo**. *Ingreſſu cui ante divorcium*, *Vet. N. B.* fol. 130. *Reg. Orig.* 233. For which ſee **Cui ante divorcium**. *Ingreſſu in caſu conſimili*, for which ſee **Caſu conſimili**. *Ingreſſu ſine aſſenſu capituli*, *Reg. Orig.* fol. 230. Is a Writ given by the Common-Law to the Succeſſor of him that alienated *ſine aſſenſu capituli*, &c. and is ſo called from thoſe words contained in the Writ, *Co. on Lit.* fol. 325. And *Ingreſſu ad communem Legem*, *Vet. N. B.* 132. *Reg. Orig.* 234. which lieth where the Tenant for term of Life, or of another's Life, Tenant by Courteſie, or Tenant in Dower, maketh a Feoffment in Fee, and dieth: Hé in the Reverſion ſhall have the aforeſaid Writ againſt whomſoever that is in the Land, after ſuch Feoffment made.

Ingroſſator magni Rotuli. See **Clerk of the Pipe**.

In groſſe, Is that which belongs to the perſon of the Lord, and not to any Mannor, Lands, &c. As Villain in groſſe, Advowſon in groſſe, &c. *Co. on Lit.* fol. 120.

Ingroſſing of a Fine, Is making the Indentures by the Chirographer, and the delivery of them to the Party unto whom the Cogniſance is made, *Fitz Nat. Brev.* fol. 147.

Ingroſſer, **Ingroſſator**, From the French *Groſſier*, that is, *Solidarius venditor*, Is one that buys Corn growing, or dead Viſuals to ſell again, except Barley tor Malt, Oats for Oatmeal, or Viſuals to Retail; Badging by Licence, and buying of Oyls, Spices and Viſuals, other than Fiſh or Salt, *Anno 5 E. 6. cap. 14. 5 Eliz.* 14. 13 *Eliz.* 25. but *West. Symbol.* part 2. tit. *Inditements ſect.* 64. ſays, This definition rather doth belong to unlawful ingroſſing, than to the word in general. See *Foreſtaller*, and 3. par. *Inſt.* fol. 195. *Ingroſſer* is alſo a Clerk that writeth Records or Inſtruments of Law in ſkins of Parchment: As in *Henry the Sixth's* time, he who is now called *The Clerk of the Pipe*, was call'd *Ingroſſator Magni Rotuli*; and the Controulour of the Pipe was called *Duplex ingroſſator*, *Speim*.

Inheritance.

Inheritance, *Hereditas*, Is a perpetuity in Lands or Tenements to a man and his Heirs: For *Littleton*, lib. 1. cap. 1. hath these words, This word *Inheritance* is not only understood where a man hath inheritance of Lands and Tenements by descent or Heritage, but also every Fee-simple or Fee-tail that a man hath by his Purchase, may be said by *Inheritance*, for that his Heirs may inherit after him. Several inheritance is that which two or more hold severally, as if two men have land given them to them and their Heirs of their two Bodies; these have joint Estates during their Lives, but their Heirs have several Inheritance, *Kitchin*, fol. 155. See *Terms de la Ley*, verbo *Enheritance*.

Inwardus, One attending the King in *Hereford* and *Cambridge shires*, *Doomsday*.

Inhibition, *Inhibitio*, Is a Writ to inhibit or forbid a Judge from farther proceeding in the Cause depending before him. See *F. N. B.* fol. 39. where he putteth prohibition and inhibition together. Inhibition is most commonly a Writ issuing out of a higher Court-Christian to a lower and inferior, upon an Appeal, *Anno 24 H. 8. cap. 12.* And Prohibition out of the Kings Court to a Court-Christian, or to an inferior Temporal Court.

Injunction, *Injunctio*, Is a writ grounded upon an Interlocutory Order in Chancery; sometimes to give possession to the Plaintiff, or want of the Defendants Appearance; sometimes to the Kings ordinary Court, and sometimes to the Court-Christian, to stay proceedings in a cause upon Suggestion made, that the rigour of the Law, if it take place, is against equity, and conscience in that case. See *West. Symb.* part 2. tit. Proceeding in Chancery, sect. 25.

Inlagh or Inlaugh, *Inlagatus vel homo sub lege*, signifies him that is some Frank-Pledge, and not Outlawed, of whom take *Bractons* words, *Lib. 3. TraB.* 2. cap. 11. *Minor vero et qui infra aetatem duodecem annorum fuerit, utlagari non potest nec extra legem poni; quia ante talem aetatem non est sub lege aliqua nec in decenna, non magis quam famina, quae utlagari non potest, quia ipsa non est sub lege; i. Inlaugh Anglice, sc. in franco plegio sive decenna sicut masculus duodecem annorum et ulterius, &c.* Inlaughe significat hominem subiectum legi, *Fleta*, lib. 1. cap. 47.

Inlagary, *Inlagatio*, Is a restitution of one Outlawed, to the Kings Protection, and to the benefit or estate of a Subject, *Bracton*, lib. 3. traB. 2. cap. 14. nam. 6. 7; 8. *Britton*, cap. 13.

Inland, *Inlandum*, *Terra Dominicalis*, *Pars Maneris Dominica*, terra interior; For that which was let out to Tenants, was called *Utlend*. In the Testament of *Britbericus* in *Itinerar. Cantu*, 'tis said thus according to *Lamberts* Interpretation, *To Wulfce (I give) the Inland or Demans, and to Elseyth Outland or Tenancy*. This word is often found in *Doomsday*.

Inleashed, From the French *Enlaid*, *inleashed* or *inlaid*; the word we may read in the *Champions Oath*, *Co. Inst.* 2. par. fol. 247.

Inmates, Be those that are admitted to dwell for their Money jointly with another man, though in several Rooms of his Mansion-house, passing in and out by one Door, and not

being able to maintain themselves; which are inquirable in a *Leet*, *Kitchin*, fol. 45. where you may read who are properly *Inmates*, and who not.

Innes of Court, *Hospitii Curia*, Are so called, because the Students therein do study the Laws, to enable them to Practise in the Courts of *Westminster*, or elsewhere; and also because they use all other gentle Exercises, as may make them more serviceable to the King in his Courts, *Forrescue*, cap. 49. Of these there are four well known, viz. the *Middle-temple*, *Inner-Temple*, *Lincolns-Inn* and *Grays-Inn*; which with the two *Sergeants-Inns*, and eight Inns of Chancery (as *Sir Edward Coke* says) make the most famous University for the Profession of Law only, or of any one humane Science in the World; concerning which, see *Dugdales Origines Judiciales*.

Inn, *Hospitium*; Common Inns are instituted for Passengers; for the proper Latine word is *Diversorium*, because he that lodgeth there is quasi diversens se a via; and therefore if a Neighbour which is not a Traveller, as a Friend at the request of the Inn-Keeper lodge there; and his Goods are stolen, he shall not have an Action, for the Writ is *Hospitandis hominibus per partes, ubi hujusmodi hospitium existunt transientes. Et in eisdem hospitibus*, *Co. 8. Rep. Calves Case*: Neither shall the Inn-Keeper answer for any thing that is out of his Inn, but only for such things as are *infra hospitium*, the words are *eorum bona & catalla infra hospitium illa existentia*. Any person found tipling in any Inn or Ale-house, shall be adjudged within the Statutes against Drunkenness, 21 Jac. and 1 Car. 1. cap. 4.

Infant, *Infans*, Before the Age of one and twenty years, a Man or Woman is called an Infant in the Law. *Co. on Lis.* lib. 1. cap. 21. & lib. 1. cap. 28. An Infant of eight years of Age, or above, may commit Homicide, and be hanged for it; viz. if it may appear by hiding the person, by excusing, or by any other act that he had knowledge of Good and Evil, and of the danger of the Offence, for here *Malitia supplebit aetatem*; yet *Co.* upon *Lis.* sect. 405. saith, That an Infant shall not be punished till the age of fourteen, which, says he, is the age of discretion.

Innolescimur, Letters Patents so called, which are always of a Charter of Feoffment, or some other Instrument not of Record, and so stiled in the words of the conclusion, *Innolescimur per presentes*. An *Innolescimur* and *Vidimus* are one and the same. See *Co. Rep.* 5. Pages Case.

Innuendo, From *Innuo*, to beck or nod with the Head, is a word frequently used in Writs, Declarations and Pleadings, and the Office of it is only to declare and ascertain the person or thing which was named or left doubtful before; as to say, He (*innuendo*, the Plaintiff) is a Thief, where there was mention before of another person; but this *innuendo* must neither enlarge the sense of the words, nor make a supply, or alter the Case where the words are defective. See *Huttons Rep.* fol. 44.

Inpeny and Outpeny, Concerning which, you may read in the Register of the *Mansley* of *Cokeford*, pag. 25. thus, *De Inpeny & Out-*

Outpeny consuetudo talis est in Villa de East-Rudham de omnibus terris quae infra Burgagium tenentur, viz. quod ipse qui vendiderit vel dederit dictam tenuram alicui, dabit pro exitu suo de eadem tenura unum denarium & similiter pro ingressu suo, &c. These words and Custom are also mentioned in the Rolls of a Court there held, about the Feast of the Epiphany, Anno 12. R. 2. Spelm.

Inquirendo, Is an Authority given to a person or persons, to enquire into something for the Kings advantage, which, in what cases it lyeth, see *Reg. Orig. fol. 72. 85, 124, 265, 266, 267.*

Inquisition, *Inquisitio*, Is a manner of proceeding in matters Criminal, by the Office of the Judge, or by the great Inquest before Justices in Eyre. See *Eyre*, and the places in *Bracton* and *Britton* there quoted. *Hostenfis* defines it thus, *Inquisitio nihil aliud est quam alicujus criminis manifesti ex bono et equo iudicis competentis canonice facta investigatio. ca. qualiter de accusat. in the Decretals.* Inquisition is also with us used for the King in Temporal Causes and Profits, in which kind it is confounded with Office. *Stamf. Prærog. fol. 51. See Office.*

Inquisitors, *Inquisitores*, Are Sheriffs, Coroners, *super visum corporis*, or the like, who have power to inquire into certain Cases. Statute of *Marlbridge*, cap. 18. *Britton*, fol. 4. and *Westm.* 1, *Enquirors* or *Inquisitors* are included under the Name of *Ministri*, 2 par. *Inst. fol. 211.*

Inrollment, *Inrotulatio*, Is the Rigistring, Recording, or Entering of any lawful Act in the Rolls of the *Chancery*, as a Recognisance acknowledged, or a Statute, or a Fine, levied, or in the Rolls of the Exchequer, Kings Bench, or Common-Pleas, or in the *Hustings* of London, or by the Clerk of the Peace in any County. See *West. Symbol.* part 2. tit. *Fines*, *sec. 133.* and 27 H. 8. 16.

Instratores viarum, *Waylayers*, or such as lie in wait, are words which by 4 H. 4. cap. 2. are not to be put in Indictments, Arraignments, Appeals, &c.

Institutum tenuit, Is one Species of the Writ called a *Formedon*. See *Formedon*.

Insubnation, *Insubnatio*, 21 H. 8. 5. Is a covert, and cunning creeping into a mans favour. *Insubnation* of a Will is, among the *Civilians*, the first production of it, or the leaving it *Penes Registrarium*, in order to its Probate.

Insuperimus, Letters Patent so called, because they begin after the Kings Title with this word *Insuperimus*, and is the same with Exemplification. See Co. 5. Rep. *Pages Case*.

Installment, A settlement, or sure placing in, 20. Car. 2. cap. 2. Sometimes it is confounded with Abatement.

Instant, In Latine *Instant*, and defined by the *Englicians* to be *Unum indivisibile in Tempore, quod non est Tempus, nec pars temporis, ad quod tamen partes temporis copulantur*, and is much considered in Law; and though it cannot be actually divided, yet in conceit it may, and applied to several Purposes, as if they were several times. Whereof see in *Plowdens Commentaries*, *Fulmerston* and *Stuarts Case*, where the Statute of 31 H. 8. is expounded concerning an Abbots letting of Lands, &c. and there it is debated, that when

the Termor takes the second Lease, he surrenders his former Term; and so at the same instant of taking the second Lease, the former is expired. And in the Case between *Petit* and *Hales*, he who kills himself, commits not Felony till he be dead, and when dead, he is not in being, so as to be termed a Felon; but he is so adjudged in Law *eo instante*, at the very instant of this Fact doing; and there are many other Cases in Law, where the instant time, that is not dividable in nature; in the consideration of the mind is divided.

Institution, *Institutio*, Is, when the Bishop says to a Clerk who is presented to a Benefice, *Instituto te Rectorem talis Ecclesie cum cura animarum & accipe curam tuam & meam.* Every Rectory consists of a Spirituality and Temporality. As to the spirituality, viz. *Cura animarum*, he is a compleat Parson by institution. But as to the Temporalties, as Gleab-land, &c. he has no Frank-tenement therein till Induction, Co. 4. Rep. *Dighyer Case*. The first beginning of Institutions to Benefices was in a National Synod held at *Westminster* by *John de Crema*, the Popes Legate, Anno 1124. Which see in *Seldens History of Tynes*, pag. 375.

Insuper, Is a word used by *Auditors* in their Accounts in the Exchequer, when they say, so much remains *insuper* to such an Accountant, that is, so much remains due upon such an Account, Anno 21 Jac. cap. 2.

Intakers, Were a sort of Thieves in *Rid. desdale*, in the farthest Northern parts of England, mentioned 9 H. 5. cap. 8. and so called, because they dwelling within the Liberty, did take in and receive such Booties of Cattel, and other things, as their Confederates the Outparters brought in to them. See *Outparters*.

Intendment of Law, *Intellectus Legi*, The understanding, intention, and true meaning of Law, Co. on *Lit. fol. 78.* says, The Judges ought to judge according to the common intendment of Law.

Intension, Is a Writ that lies against him that enters after the death of Tenant in Dower, or other Tenant for Life, and holds out him in the Reversion or Remainder; For which see *F. N. B. fol. 203.* And every Entry upon the Possession of the King is called an *Intension*; as where the Heir of the Kings Tenant enters after Office, and before Livery, this is called an *Intension upon the Rigg*, as appears in *Stamf. Prærog. fol. 40, &c.*

Inter Canem & Lupum, *M. filia N. de Okele Appellat. J. C. pro rapto & pace Regis fratris die Martis prox. &c. Inter Canem & Lupum, i. in crepusculo, scilicet Anglice Twilight, i. inter diem et noctem, &c. Inter placita de Trin. 7 E. 1. Rot. 12. Glouc. In placit. de domo combusta malitiose, hora vespertina, sc. Inter Canem & Lupum venerunt malefactores, &c. Plac. Cor Reg. apud Novum Castrum, 24 E. 1. Rot. 6.*

Inter-commoning, Is where the Commons of two Mannors lie together, and the Inhabitants of both have time out of mind depastured their Cattel promiscuously in each.

Interdiction, *Interdictio*, Is used in the Common-Law in the same signification that it hath in the Canon-Law, where it is thus defined, *Interdictio est censura Ecclesiastica prohibens administrationem*

strationem disporum, and thus it is used, 24 H. 8. cap. 12.

Interdicted of Water and Fire, Were, in old time, those who for some Crime were banished, which Judgment, though not by express Sentence pronounced, yet by giving Order, That no man should receive them into his House, but deny *Fire and Water*: They were condemned, as it were, to a civil death; and this was called *Legitimum exilium*. Livy.

Interest, *Interesse*, Is usually taken for a Term, or Chattel real, and more particularly for a future Term; in which case, it is said in pleading, That he is possessed *de interesse termini*: But *ex vi termini* in a legal sense, extends to *Estates*, Right and Titles that a man hath of, in, or to, or out of Lands; for he is truly said to have an interest in them, Co. on Lit. fol. 345.

Interlocutory Order, *Ordo interlocutorius*, Is that which decides not the Cause, but only settles some intervening matter relating to the cause; As where an Order is made, by motion in *Chancery*, for the Plaintiff to have an Injunction to quiet his Possession, till the hearing of the Cause. This, or any such Order, not being final, is *interlocutory*.

Interpleader. See *Enterspleder*.

Intestates, *Intestati*; There are two kinds of *Intestates*, one that makes no Will at all; another that makes a Will, and nominates Executors, but they refuse; in which he dies as an *Intestate*, and the Ordinary commits Administration, 2. par. Inst. fol. 397. See the Stat. 22 & 23 Car. 2. cap.

Intiertry. See *Entiertry*.

Incrusion, *Intrusio*, Is, when the Ancestor dies seized of any Estate for Inheritance, expectant upon an Estate for life; and then Tenant for life dies, between whose death, and the Entry of the Heir, a Stranger doth interpose and intrude, Co. on Lit. fol. 277. lib. 3. cap. 8. f. 475. *Bracton*, lib. 4. cap. 2. To the same purpose defines it thus, *Intrusio est ubi quis, cui nullum jus competit in re nec scintilla jura, possessionem vacuum ingreditur, qua nec animo nec corpore possidetur*, &c. with whom agreeth *Fleta*, lib. 4. cap. 30. f. 1. & 2. *Britton*, cap. 65. The New Book of Entries, verbo *Entrusion*. See *Entrusion*. See *Disseisin*. See also *Abatement*, and the Stat. 21 Jac. cap. 14.

Intrusione, Is a Writ that lies against the Intruder, *Regist.* fol. 233.

Inviadationes, Portgages or Pledges, *Confirmamus eis omnes alias donationes, venditiones & inviadationes rationabiliter factas*, Mon. Ang. 1. par. tol. 478.

Inventory, *Inventorium*, Is a Description or Repertory, orderly made of all dead Mens Goods and Chattels, prized by four or more credible men, which every Executor or Administrator is bound to exhibit to the Ordinary at such times as he shall appoint, *West. Symbol. part 1. lib. 2. f. 696*. where likewise you may see the form. This *Inventory* proceeds from the Civil Law, for whereas by the ancient law of the Romans, the Heir was obliged to answer all the Testators Debts, by which means Heritages were more prejudicial to many than profitable. *Jusinian*, to encourage men the better to take upon

them this charitable Office, Ordained, That if the Heir would make and Exhibit a true *Inventory* of all the Testators Goods coming to his hands, he should be no further charged than to the value of the *Inventory*, *lib. ult. Cod. de jure deliberando*, &c.

In ventre sa mere, French, in the Mothers Belly: Is a Writ mention'd in the *Register*, Abd Anno 12 Car. 2. cap. 24.

Invest, *Investire*, Is derived of the French word *Investier*, and signifies to give possession. *Rotoman de verbis feudalibus*, verbo *Investitura*: *Investitura barbarum nomen, barbaricam quoque rationem habet, Nam ut ait feudista, lib. 2. tit. 2. Investitura proprie dicitur quando basta vel aliquod corporeum traditur a domino*. We use likewise to *invest* the Tenant, by delivering them a Verge or Rod in their hands, and ministering them an Oath, which is called *Investing*. Others define it thus, *Investitura est in suum jus alicujus introductio*, a giving Livery of Seisin or Possession.

Indoyce, 12 Car. 2. cap. 34. Is a particular of the value, custom and charges of any Goods sent by a Merchant in another mans Ship, and consigned to a Factor or Correspondent in another Country.

Inure, signifies to take effect, as the Pardon *inureth*, *Stamf. prar. fol. 40*. See *Enure*.

Jocalia, *Jewels*, Edward the first employ'd one *Andewar ad Jocalia sua impignoranda*, Claus. 29 E. 1.

Jocarius, A Jester, In a Deed of Richard Abbot of Bernay to Henry Lovet, without date; among the Witnesses to it, was *Wilhelm. sunc Jocario Domino Abbatis*.

Joclet, A Saxon word signifying *Pradialum*, a little Farm; in some parts of Kent yet called *Jocles*, as requiring but a small yoke of Oxen to till it, Saxon *Diction*.

Jotson. See *Jessen & Flotson*.

Joynder, Is the coupling or joyning of two in a Suit or Action against another, F. N. B. fol. 118, 201, 221. and in many other places, as appeareth in the *Index*, verbo *Joynder*.

Joint-tenants, *Simul tenentes*, or qui conjunctum tenent, Lib. *intrationum*, tit. *Formedon in view*, 3. be those that come to, and hold Lands or Tenements by one Title *pro indiviso*, or without partition, Co. on Lit. lib. 3. cap. 3. f. 277. These are distinguished from sole or several Tenants, from *Parceners*, and from *Tenants* in Common; and anciently they were called *Participes*, and not *Heredes*: And these must jointly implead, and jointly be impleaded by others, which properly is common between them and *Coparceners*; but *Joynt-tenants* have a sole quality of survivorship, which *Coparceners* have not; for if there be two or three *Joynt-tenants*, and one hath Issue and dies, then he or those *Joynt-tenants* that survive, shall have the whole by Survivorship. See Co. on Lit. *ibid.* f. 180. See more of this *Termes de la Ley*, verbo *Joynt-tenants*.

Joyning of Issue, *Junctio Exitus*. See *Issue*.

Joynture, *Junctura*, Is a Covenant whereby the Husband, or some other Friend in his behalf, assureth unto his Wife, in respect of marriage, Lands or Tenements for term of Life, or

otherwise, *West Symbol. part 2 lib. 2. tit. Covenants, sect. 128. 37 H. 8. cap. 10.* It is so called either because granted *ratione junctura in matrimonio*, or because the Land in *Frank-marriage* is given jointly to the Husband and Wife, and given to the Heirs of their Bodies, whereby the Husband and Wife be made Joyn-tenants during the Coverture, *Co. lib. 3. Butler and Bakers Case, fol. 27.* See *Frank-marriage*. *Feignure* is also used as the abstract of Joyn-tenants, *Co. lib. 3. fol. 33 Marquess of Winchester's Case.* *Feignure* is also by *Bracton* and *Fleta* used for joynung of one Bargain to another, *Fleta lib. 2. cap. 69.* And therefore *Feignure* in the first signification may be so called, in respect that it is a Bargain of Livelihood for the Wife, adjoyned to the Contract of Marriage. See also the *Terms of the Law, codem.*

Journays accounts, *Dieta computata*, Is a term in the Law to be thus understood, it is a writ de abaco without the default of the Plaintiff or Demandant, he may purchase a new Writ, which if it be purchased by *Journays accounts*; (that is, within as little time as he possibly can, after the abatement of the first Writ,) then this second Writ shall be as a continuance of the first, and so shall out the Tenant or Defendant of his Voucher. Plea of Non-tenure, Joyn-tenancy fully admitted, &c. or any other Plea which arises upon matter happening after the date of the first Writ; and fifteen days have been held a convenient time for the Purchase of the new Writ. See for this Writ by *Journays accounts*, *Co. lib. 6. fol. 94 Spencer's Case.*

Journal; A Diary or Day-Book, *Journals* of Parliaments are not Records, but only Remembrances; and are neither of necessity, nor have been of long continuance. See *Hub. Rep. fol. 109.*

Journey choppers, 8 H. 6. 5. were Regrators of Yarn; whence the first part of the word is derived, is somewhat obscure; but *Choppers* are to this time known to be *Changers*; *As a chop and change* is a familiar phrase. See *Chop-Church.*

Journey man, Cometh of the French word *Journee*, that is, a day or days-work, so that properly it is one that wrought with another by the day, though now by the Statute made *Anno quinto Eliz. cap. 4.* it be extended to those likewise, that covenant to work with another in his Trade or Occupation by the year.

Ire ad largum, To go at large, is a term frequent in the Law.

Irregularity, *Irregularitas*, Disorder: In the Canon Law it is taken for an Impediment, which hinders a man from taking holy Orders; as if he be base born, notoriously defamed of any notable Crime, maimed, or much deformed, or has consented to procure anothers death, and the like.

Irrepleviable or Irrepleviable, That neither may nor ought to be replevied or set at large upon Suresties; as the Distress shall be irrepleviable, 13 E. 1. cap. 2.

Jinglals, *Gluten Piscium*, A kind of Fish-glue or Fish-gum, brought from Heland, and those parts, and used in Medicine, and by some in the adulterating of Wines, but for that prohibited by Statute made 12 Car. 2. cap. 25.

Issue, *Exitus*, Cometh of the French *Issue*, i. emanare: It hath divers Applications in the Common Law; Sometimes being used for the children begotten between a man and his Wife, sometimes for Profits growing from Aimerements or Fines, and sometimes for profits of Lands or Tenements, *Westm. 2. 13 E. 2. cap. 39.* Sometimes for that point of matter depending in Suit, whereupon the Parties joyn, and put their Cause to the Tryal of the Jury: And yet in all these it hath but one signification, which is an effect of a Cause proceeding; as the children be the effect of the Marriage between the Parents; the profits growing to the King or Lord, from the punishment of any many Offence, is the effect of his Transgression; the point referred to the tryal of twelve men; is the effect of Pleading or Process. *Issue* in this last signification is either general or special; General *issue* seemeth to be that whereby it is referred to the Jury, to bring in their Verdict, whether the Defendant have done any such thing, as the Plaintiff layeth to his charge. For example, If it be an Offence against any Statute, and the Defendant plead *Not Guilty*; this being put to the Jury, is called the general *issue*. And if a man complain of a private wrong, which the Defendant denyeth, and pleads no wrong nor Disceisin; and this be referred to the Jury, it is likewise the general *issue*, *Kitchin, fol. 225.* See *Doct. and Stud. fol. 158.* The special *issue* then must be that, when special matter being alledged by the Defendant for his defence, both Parties joyn thereupon, and so grow rather to a Demurrer; if it be *quæstio juris*, or to tryal by the Jury, if it be *quæstio facti*, 4 H. 8. 3. 18 Eliz. cap. 2. and the *New Book of Entries, verbo Issue.*

Itinerant, *Itinerans*, Travelling, or taking a Journey: Those were anciently called Justices *itinerant*, who were sent with Commission into divers Counties to hear such Causes especially as were termed Pleas of the Crown. See *Justices in Eyre.*

Judaisme, *Judaismus*, The Custome; Religion, or Rites of the Jews: This word was often used by way of exception in old Deeds. The Statute *de Judaismo* was made 18 E. 1. At which Parliament the King had a Fifteenth granted him, *pro Expulsione Judæorum*. *Judaismus* was also used for a Mortgage. — *Pro hac autem donatione dederunt mihi dicti Abbas & Canonici sex Marcas sterling. ad acquietandam terram prædictam de Judaismo in quo fuit impignorata per Rob. fratrem meum, &c. Ex magno Rot. Pipz de Anno 9. E. 2.*

Judge and **Judges**, *Judex & judices*, All their Commissions are bounded with this expresse limitation, *Faciuri quod ad justiciam pertinet secundum legem & consuetudinem Angliæ.* The Judge at his Creation takes an Oath, That he shall indifferently minister Justice to all them that shall have any Suit or Plea before him, and this he shall not forbear to do, though the King by his Letters, or by expresse word of mouth should command the contrary, &c. It is a Maxim in the Law, *Alquis non debet esse Judex in propria causa.* King Henry the Fourth, when his eldest Son the Prince was by the Lord chief Justice, for some great misdemeanors, committed to Prison, he thanked God that he had a Son of that Obedience, and a Judge so impartial, and of such undaunted Courage; the

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Story is well known, and may be read at large both in *Sam and Daniel*, in *par. Hen. 5. Forrester* in his *Book de Laudibus legum Anglie* speaks of a Judge, complaining of a Judgment given against a Gentlewoman of Salisbury, who being accused by her own Man without any other proof, for murdering her Husband was thereupon condemned and burnt: The Man, who accused her, being within a year after convicted for the same Offence, confessed, that his Mistress was altogether innocent of that cruel Fact. But this *Jury* (as the same Author adds) *sepissime fallax est, quod nunquam in vita sua animum ejus de hoc fallo purgaret*, and *sepissime* Hen. 5. the King commanded of *Gafoigne* Justice, if he saw one in his presence kill J. S. and another (which was not culpable) should be indicted on this before him, what he would do in this Case? To which he answer'd, That he ought to respite the Judgment against him, and to relate the matter fully to the King, to procure him a Pardon: for there he cannot acquit him, and give Judgment according to his private knowledge. But where they have a judicial knowledge, there they may and ought to give Judgment according to that. See the like Case determined by King James in his Disputations at Oxford, *Bar. Plat. p. 109. 119. 124. 125. Plow. fol. 83. Partridge against Strange*.

Judgment or **Judicium**, *quasi juris dictum*, is the Censure of the Judges to be called, and is the very Voice and final Doom of the Law; and therefore is always taken for unquestionable truth. The ancient words of Judgment are very significant, viz. *Consideratum per curiam*, &c. because Judgment is or ought to be given by the Court, upon consideration of the Record before them; and in every Judgment there ought to be three persons, viz. *Altor, reus & Juxes*: Of Judgments some be final, and some not final. See *Co. on Lin. fol. 39. and Cas. Rep. Dozmanns Case*.

Judicium Dei. The Judgment of God; to our Ancestors call'd those now prohibited Trials of Ordeal, and its several kinds, *Si super defendere non posses iudicio Dei, scilicet Aquaval, ferro, fletu de eo iustitia*, *Leges Ed. Conf. cap. 16.* See *Spelman's Gloss.* on this word.

Judgment or Tryal by the holy Cross. Long since disused. See *Cressyes Church History*, fol. 960.

Aug. A watery place, according to *Doomsday*.

Augum, Half an Arpent, 50 Perches, so mentioned in *Doomsday*, as the same Book interprets, *Jugum terra*, to contain half a Plowland.

Juncaria or **Juncaria**, (From *juncus*, the Latine word for a Rush;) is a foyle or place where Rushes grow, *Co. on Lin. fol. 5. Cum Piscariis, Turbariis, Juncariis, & communibus pasturis ad messungium pradium pertinet*, *Pat. 6 E. 3. pag. 1. m. 25.*

Juncture. See *Joynture*.

Jura Regalia. See *Regalia*.

Jure Patronatus. See the *New Book of Entries*, verbo *Jure Patronatus in Quare impedit*, fol. 465. col. 3.

Jurats, *Jurati*, 2 & 3 E. 8. cap. 30. As the Mayor and Jurats of *Maystone*, *Rye*, *Winchester*, *Tenderton*, &c. are in the nature of Aldermen,

for Government of their respective Corporations. So *Jersey* haths *Baylis* and *jurats* as *Parsons* of sworn Assizes to govern the Island. *Chancery Remedy*, *Massachusetts* incorporated by the Baylis, twenty four Jurats, and the Constables of the town by Charter thence, Feb. 22. 1723. and *jurats* in *Jury*, *Jurors*, *Mayors* meet often from the Latine *jurare* to swear, and hence it is they twenty four or twenty five men sworn to inquire of the matter of Fact, and decide the truth upon such Evidence as shall be delivered them, according to the matter in question. Of which *Jury*, who may, and who may not be impeached, see *2 R. 2. fol. 163.* And here observe, That in England there be three sorts of Tryals, the one by Parliament, another by Battle, and the third by Assize or *Jury*, *Smith de Rep. p. 109. 119. 124. 125.* Of the two former read the *History of Battle*, *Chancery*, and *Pat. 6 E. 3. pag. 1. m. 25.* Of the third, the *Acquittal* without criminality, Publick or private, (person or real,) is referred to the *Fact*, to *Jury*, and as they find it, so passeth the Judgment; and the great Favor that by this the King shewes to his Subjects, more than the Privilege of other Nations, you may read in *Glauvil*, *lib. 1. cap. 7.* where he writeth; *Reges de consuetudine principum de consuetudine populi in iudiciis, quod circa dominum & status integritas non subiaceret confusioni*, *lib. 1. cap. 7.* *quod quod in iudicio soli iudicantur possiderent, vendendo, duellum casum determinassent, homines iudicium, &c.* This *Jury* is not only used in Chancery of Justices Bench; but also in other Courts and Matters of Office, as in the *Exchequer* make distinction in any thing touching his Office, he doth it by *Jury* or Inquest. If the Coroner inquire how a Subject found dead, came to his end; he useth in Enquest. The Justice of Peace in their Quarter Sessions; The Sheriff in his County and Turn; The Baylis of a hundred; The Sheriff of a Court-Leet or Court-Baron; if they inquire of any Offence, or decide any Cause between Party and Party, they do it by the same manner. So that where it is said *all things be tryable by Parliament, Battle or Assize*, *Assize* in this place is taken for a *Jury* or Enquest, empanelled upon any Cause in a Court where this kind of Tryal is used; and though it be commonly reported that this Custom of trying and deciding Causes proceeded from the *Saxons* and *Britains*; and was of favour permitted to us by the Conquerour; Yet I find by the *Grand Customary of Normandy*, cap. 24. that this course was likewise used in that Country, for *Assize* is in this Chapter defined to be an Assembly of wise men, with the Baylis, in a place certain, at a time assigned forty days before, whereby Justice may be done in Causes heard in the Court: Of this Custom also; and those Knights of Normandy, *Johannes Faber* maketh mention in the Rubrick of the Title *de militari testamentis*, in *Institut.* This *Jury* though it appertains to most Courts of the Common Law, yet is it most notorious in the half year Courts of the Justices Errants, commonly called the *Great Assizes*; and in the Quarter Sessions, and in them it is most ordinarily called a *Jury*: And that in civil Causes, whereas in other Courts it is termed oftener an *Enquest*; and in the Court-Baron, a *Jury* of the Homage: In the General Assize, there are usually many *Jurors*, because there be more of Causes both

civil and criminal, commonly to be tryed, whereof one is called *The Grand Jury*, and the rest *Petit Juris*, whereof it seemeth there should be one for every Hundred. *Lamb. Eirenarch. lib. 4. cap. 2. pag. 284.* The *Grand Jury* consists ordinarily of twenty four grave and substantial Gentlemen, or some of the better sort of Yeomen, chosen indifferently by the Sheriff out of the whole Shire; to consider of all Bills of Inditement preferred to the Court, which they do either approve by writing upon them *Bills vera*, or disallow by indorsing *Ignominus*: Such as they do approve, if they touch Life and Death, are farther referred to another *Jury* to be considered of, because the Case is of such Importance; but others of lighter moment, are upon their allowance, without more work, fined by the Bench, except the Party traverse the Inditement, or challenge it for insufficiency, or remove the Cause to a higher Court by *Certiorari*, in which two former Cases it is referred to another *Jury*, and in the later transmitted to a higher. *Lamb. Eir. lib. 4. cap. 7.* and presently upon the allowance of this Bill by the Grand Inquest, a man is said to be indicted; such as they disallow, are delivered to the Bench, by whom they are forthwith cancelled or torn. The *Petit Jury* consists of twelve men at the least, and are empannell'd as well upon criminal as upon civil Causes: Those that pass upon Offences of Life and Death, do bring in their Verdict either Guilty, or not Guilty, whereupon the Prisoner, if he be found guilty, is said to be convicted, and so afterward receiveth his Judgment and Condemnation, or otherwise is acquitted, and set free: of this read *Forsefous, cap. 47.* Those that pass upon civil Causes real, are all, or so many as can conveniently be had of the same Hundred, where the Land or Tenement in question doth lye, being four at the least, and they upon due examination bring in their Verdict either for the Demandant or Tenant. Of this also see *Forsefous, cap. 25, 26.* According to which, Judgment passeth afterward in the Court, where the Cause began: And the reason hereof is, because these Justices of Assize are in this case, for the ease of the Country, only to take the Verdict of the *Jury* by vertue of the Writ called *Nisi prius*, and so return it to the Court where the Cause is depending. See *Nisi prius*, and *Lambert* in his *Explication of Saxon words, verbo Centuria*. His words are these, *In singulis centuriis Comitatus sunt atq; libra conditionis viri duodecim aetate superiores, una cum Proposito sacra tenentes, jurant, se adeo virum aliquem innocentem haud condemnaturus, sententiae absoluturus.* See also the *Customary of Normandy, cap. 69. Vide etiam Enquest.* See *Twelve men*, and *Lamberts Eiren. lib. 4. cap. 3. pag. 384.*

Juridical days, *Dies Juridici*, Days on which the Law is administered, *Days in Court.* See *Dies.*

Jurisdiction, *Jurisdiclio*, Is a dignity which a Man hath conferred on him to do Justice in Cases of Complaint made before him: Of this there are two kinds, one which a man hath by reason of his Fee, doing Right in all Plaints relating to his Fee; by vertue thereof, the other is collated by a Prince to a Bayliff, which division we find in the *Grand Customary of Normandy, cap. 2.* which is not unfit for the constitution of our

Government: For under the name of Bayliff there, we may comprehend all that have Commission from the Prince to give Judgment in any Case, See *Co. 4. Inst. in the Proamium.* The Civilians divide *Jurisdictionem* into *Imperium & Jurisdictionem*, & *imperium in merum & mixtum*; Of which you may read several Treatises.

Juris utrum. Is a Writ that lyeth for the liegeman, whose Predecessor hath alienated his Lands or Tenements; the divers uses of which Writ see in *F. N. B. fol. 48.*

Jus Cozoniz, The Right of the Crown is part of the Law of England, and differs in many things from the general Law, relating to the Subject. See *Co. on Lit. fol. 15. b.*

Jus Curialitatis Angliz. See *Curteis of England.*

Jus hereditatis, The right of Inheritance. See *Heir.*

Jus Patronatus, Is the right of presenting a Clerk to a Benefice. See the *New Book of Entries, verbo Jure Patronatus in Quare impedit, fol. 465. col. 3.*

Jules, Cameth of the French *Joules*, i. *decurfus*, and signifieth with us contentions between Martial Men and Persons of Honor, with Spears on Horseback, 24 H. 8. cap. 19.

Juro, *Jurator*, Is one of those twenty four or twelve Men, which are sworn to deliver a Truth upon such Evidence as shall be given them touching the matter in question, of which see *F. N. B. fol. 165.* and the Statute 16 & 17 Car. 2. returning able and sufficient *Jurors.*

Justice, *Jusiciarius*, Signifies him that is deputed by the King to do Right by way of Judgment; the reason why he is called *Justice* and not *Judex*, is, because in ancient time the Latine word for him was *Justinus*, and not *Jusiciarius*, as appeareth by *Glanvile, lib. 2. cap. 6.* and *Rog. Hoveden, part. poster. sur. annal. fol. 413.* Another reason why they are called *Jusiciarii*, and not *Judices*, is, because they have their Authority by Deputation, as *Delegates* to the King, and not *jure Magistratus*, and therefore cannot depute others in their stead, the *Justices* of the Forest only excepted, who hath that liberty especially given him by 32 H. 8. 35. for the Chancellor, Marshal, Admiral, and such like, are not called *Jusiciarii*, but *Judices*: Of these *Justices* there are divers sorts in England, of the manner of whose creation with other appurtenances, read *Forsefous, cap. 51.* These in *Magna Charta, cap. 12.* and other Statutes, are called *Justices.*

Justice or chief Justice of the Kings Bench, *Capitalis justitia vel justiciarius de Banco Regis*, Is a Lord by his Office while he enjoys it, and the chief of the rest; His Office especially is to hear and determine all Pleas of the Crown, viz. such as concern Offences committed against the Crown, Dignity, and Peace of the King; as Treasons, Felonies, Mayhems, and such like; which you may read in *BraBou, lib. 3. traB. 2. per totum*, and in *Stamf. Pl. Cr.* from the first to the 51. chap. of the first Book. He also, with his Assitants, heareth all personal Actions and real also, if they be incident to his Jurisdiction. See *Crompt. Jur. fol. 67.* Of this Court *BraBou, lib. 3. cap. 7. num. 2.* saith thus, *Placita vero*

vero civilis in rem & personarum Curia Domini Regis terminanda, eorum diversis iusticiariis terminantur; & illarum curiarum habet unam propriam, sicut aula Regiam, & iusticiationes capitales qui proprias causas Regis terminant & aliorum omnium per quere-lam vel privilegium sive libertatem; ut si sit aliquis qui implacari non debeat, nisi coram Rege. This Justice hath no Patent under the Great Seal, but is made by Writ in this thorn form.

Rex, &c. M. H. Solutem, sciatis quod coram vobis iusticiarium nostrum capitalem ad placita coram vobis tenenda, durando de-
replacito nostro. T. R. &c.

Of the ancient Dignity of this chief Justice, we find that in the time of King John, and others our ancient Kings, it often occurs in Charters of Priviledges; *Quod non ponatur respondere nisi coram nobis vel capitali iustitia nostra*. The Court was first called *The Kings Bench*, because the King sometime sat in it in his own Person, and was moveable with the Court; *H. 9. 11.* The Oath of the Justices see in the Stat. 18 E. 3. Stat. 4. and in *Origines Juridicales* a Catalogue of all the Lordships Justices in England. See Oath, and see *Kings Bench*.

Justice, or chief Justice of the Common Pleas, *Dominus Iusticiarius Communium Placitorum*. He is also a Lord by his Office, and with his Assistants, originally did hear and determine all Causes at the Common Law, that is, all civil Causes between common Persons, as well personal as real, for which cause it is called *The Court of Common Pleas*, as distinguishing it from the Pleas of the Crown, or the Kings Pleas, which are special, and appertaining to him only. Of this, and the jurisdiction thereof, see *Crompt. Jur. fol. 91.* and *4. Inst. fol. 99.* This Court was always settled in a place, as appears by the Stat. 9 H. 3. 11. The Oath of him and his Associates, see 18 E. 3. Stat. 4. See Oath.

Justice of the Forest, *Iusticiarius Forestarum*. Is also a Lord by his Office, and hears and determines all offences within the Forest, committed against Vert or Venison: Of these there be two, whereof one hath Jurisdiction over all Forests on this side Trent, the other of all beyond. The chief point of their Jurisdiction consisteth upon the Articles of the Kings Charter, called *Charta de Foresta*, made Anno 9 H. 3. concerning which, see *Camden, Brit. pag. 214.* See *Protosylvesterius*. The Court where this Justice sits and determines, is called *The Justice Seat of the Forest*, held once every three years, as you may read in *Manwoods Forest Laws, cap. 24.* He is also called Justice in Eyre of the Forest; and is the only Justice that may appoint a Deputy, by the Statute of 32 H. 8. 35.

Justices of Assize, *Iusticiarii ad capiendas Assisas*, are such as were wont by special Commission to be sent (as occasion was offered) into this or that County, to take Assizes for the ease of the Subjects; for whereas these Actions pass always by Jury, so many men might not, without great damage and charge, be brought up to London, and therefore Justices for this purpose, by Commission particularly authorized, were sent down to them. For it seems, that the Justices of

the Common Pleas had no power to take Assizes till the Stat. of 8 R. 2. cap. 2. for by that they were enabled to it, and to deliver Gaols. And the Justices of the Kings Bench have by that Statute such Power affirmed unto them, as they had one hundred years before. These Commissions ad capiendas Assisas, have of late years been varied and executed only in Lent, and the King Vacation, when the Justices, and other learned Lawyers, may be at leisure to attend those Controversies, whereupon it thus falls out, that the Matters that were wont to be heard by more general Commissions of Justices in Eyre, are heard all at one time with these Assizes, which was not so of old, as appears by *Bracton, lib. 3. cap. 7. num. 2. Habet etiam iusticiarios itinerantes de Comitatu in Comitatu, quandoq; ad omnia placita; quandoq; ad quendam specialia, sicut Assisas, &c. & ad Gaolos deliberandas, quandoq; ad unam vel duas & non plures*. And by this means the Justices of both Benches being worthily accounted the fittest of all others, and their Assistants, were employed in these Affairs. But no Justices of either Bench, nor any other, may be Justices of Assize in his own County, *Stat. 8. R. 2. 2. and 33 H. 8. 24.* And those who now are called Justices of Assize, and twice every year go the Circuit, by two and two through all England, dispatch their several business by several Commissions, *Crompt. Jur. fol. 210.* For they have one Commission to take Assize, another to deliver Gaols, another of Oyer and Terminer, &c. That Justices of Assize, and Justices in Eyre did anciently differ, appeareth by 27 E. 3. cap. 3. And that Justices of Assize and Justices of Gaol-delivery were divers, is evident by 4 E. 3. 3. The Oath taken by Justices of Assize is all one with that taken by the Justices of the Kings Bench, *Old Abridgements of Statutes, tit. Sacramentum iusticiariorum. See Oath.*

Justices of Oyer and Terminer, *Iusticiarii ad audiendum et terminandum*. Were Justices deputed upon some special or extraordinary Occasion, to hear and determine some peculiar Causes. *Fitzherbert* in his *Nat. Brev. saith*, That the Commission *d'Oyer and Terminer* is directed to certain Persons upon any great Assembly, Insurrections, heinous misdemeanors, or Trespasses committed. And because the occasion of granting this Commission should be maturely weighed, It is provided by the Statute made 2 E. 3. cap. 2. That no such Commission ought to be granted, but that they shall be dispatched before the Justices of the one Bench or other, or Justices Errants, except for horrible Trespasses, and that by the special favour of the King. The Form of this Commission, see *F. N. fol. 110.*

Justices in Eyre, *Iusticiarii itinerantes*, Are so termed of the old French word, *Eyre*, *iter*, as (*a grand Eyre, i. magnis itineribus*.) proverbially spoken. These in ancient time, were sent with Commission into divers Counties to hear such Causes especially, as were termed Pleas of the Crown. And this was done for the Ease of the People, who must else have been hurried to the Kings Bench, if the Cause were too high for the County Court: They differed from the Justices of Oyer and Terminer, because they (as we said before) were sent upon one or few special Causes, and to one place, whereas the Justices in Eyre were

sent through the Provinces and Counties of the Land, with more indefinite and general Commission, as appeareth by *Bracton*, lib. 2. cap. 11. 12. 13. and *Britton*, cap. 2. And again, because the *Justices of Eyre* and *Terminals* were sent upon yearly upon any uproar, or other occasion in the Countrey; but these in *Eyre* (as Mr. Grain sets down in the *Preface to his Reading*) were sent but every seven years once, with whom agrees *Horne* in his *Mirror of Justices*, lib. 2. cap. *quorum potent* *et de Eyre*, &c. Et lib. 2. cap. *des peches criminels*, &c. al *Juste del Roy*, &c. And lib. 3. cap. *de Justices in Eyre*. Where he also declares what belongs to their Office. [But there is a Book intituled, *Orig. Jurisdictiones*, which says, They went oftener.] These were instituted by King Henry the Second, as *Canham* in his *Britannia* witnesseth, pag. 104. and *Boaden* per. *post. suar. annal.* fol. 313. hath of them these words, *Justiciarii itinerantes, constituti per Henricum Secundum, qui divisit Regnum suum in sex partes, per quarum singulas 1200. Justiciarios itinerantes constituit*, &c. In some respect they resembled our *Justices of Assise* at present, though their authority and manner of proceeding much differ. Co. on *Lit.* fol. 223.

Justices of Gaol-delivery, *Justiciarii ad Gaolas deliberandas*, Are such as are sent with Commission to hear and determine all Cause-appertaining to such as for any Offence are cast into the Gaol; part of his Authority is to punish such as let to Mainprize those Prisoners that be not bailable by Law, nor by the Statute *de finibus*, cap. 3. F. N. B. fol. 151. These seem in ancient time to have been sent into the Countrey upon this several occasion, but afterwards *Justices of Assise* were likewise authorised to this, *Anno 2. 2. cap. 3.* Their Oath is all one with other of the Kings *Justices* of either Bench, *Old Abridgement of Statutes*, tit. *Sacramentum justiciariorum*. See Oath.

Justice of the Hundred, *Justiciarius Hundredi*, erat ipse *Hundredi Dominus*, qui & *Centurio* & *Centenarius* appellatur, *Hundrediq;* *Aldermanus*, *saith Spelman*.

Justices of Peace, From *Justicia*, All things belonging to Justice, Co. on *Westm.* 1. fol. 225.

Justices of Laborers, Were *Justices* heretofore appointed to redress the forwardness of laboring-men, that would either be idle, or have unreasonable Wages. See 21 E. 3. cap. 1. 25 E. 3. cap. 8. and 31 E. 3. cap. 6.

Justices of Nisi Prius, Are all one at this time with *Justices of Assise*, for it is a common Adjournment of a Cause in the Common-Pleas, to put it off to such a day, *Nisi prius justiciarii venerint ad eas partes ad capiendas Assisas*; and upon this Clause of Adjournment they are called *Justices of Nisi prius* as well as *Justices of Assise*, by reason of the Writ or Action that they have to deal in. Their Commission you may see in *Crompt. Jur.* fol. 204. yet with this difference between them, that *Justices of Assise* have Power to give Judgment in a Cause, but *Justices of Nisi prius* only to take the Verdict. But in the nature of both their Functions, this seems to be the greatest difference, that *Justices of Nisi prius* have to deal in Causes personal as well as real; whereas *Justices of Assise*, in strict acceptance, meddle only with the possessory Writs called *Assise*.

Justices of traile-baston, Were a kind of *Justices* appointed by King Edward the First, upon occasion of great Disorders grown in the Realm, during his absence in the Scotch and French Wars. In the *Old N. B.* fol. 32. they are stiled *Justices of Tryal-baston*: But by *Holinshed* and *Stow*, *Traile-baston*, so called (say they) of *trailing*, or drawing the staff of Justice: Or according to Co. 12. Rep. fol. 25. for their summary proceedings, who says also, They were, in a manner, *Justices in Eyre*, and their Authority founded on the Statute of *Ragman*. Their Office was to make Inquisition through the Realm, by the Verdict of substantial Jurors, upon all Officers, as Mayors, Sheriffs, Bayliffs, Escheators, and others touching Extortion, Bribery, and other such Grievances; as intrusions into other mens Lands, Barretors, and Breakers of the Peace, with divers other Offenders; by means of which Inquisitions, many were punished by Death, many by Ransome, and the rest flying the Realm; the Land was quieted, and the King gained great Riches towards the support of his Wars. See *Mat. Westm.* in Anno 1305. As to the name *Traile baston*, there are divers Opinions, some think that *Baston* signifies the Beam of a pair of Scales, and so is metaphorically applied to the just paying of recompence for Offences committed. Others think it may be deriv'd from the French (*Traillas*, i. *Conselli*) Bars or Lattices, a Grate with cross-bars: Others from the word *Traille*, i. *Purgula*, a Reame or Rayl, such as Vines use to run upon; and *Baston*, a Staff or Pole; inferring, that the *Justices* employed in this Commission, had Authority to proceed without any solemn Judgment-Seat, but might without more work proceed where-ever they could apprehend the Malefactors they sought for. If I may be admitted to give my thoughts, I suppose; it may be deriv'd from the French word *Trayl*, i. to draw; and *Baston*, a Staff; and the reason of this my supposition, is, that the Kings of England having in those times many occasions in France, by reason of their frequent Wars there, and observing that the Marshals of France had a large Power, with which they were invested by the delivery of a *Baston*, (or as we call it a *Battoon*) the Ensign of their Office and Authority. When they returned and found strange disorders grown here, in imitation of that, erected these *Justices*, who (as they say) had a *Baston* delivered them as the Badge of their Office, so that whoever was brought before them was *Traill'd* at *Baston*, *trahens ad Baculum*; whereupon with submission, may their Name easily be deduced, and they called *Justices de-trail Baston*, or *Justiciarii ad trahendum offendentes ad baculum vel baston*. We find a Commission of *Traile-baston*, coram *Rogero de Grey* & *Sociis suis Justit.* apud *S. Albanum*, Anno Regni Regis E. 3. post conquestum 5. See *Spelman's Gloss.* verbo *Traile-baston*.

Justices of the Pavilion, *Justiciarii Pavilioni*, Are certain Judges of a Pye-powder Court, of a most transcendent jurisdiction, anciently authorized by the Bishop of Winchester, at a Fair held on St. Giles's Hills near that City, by vertue of Letters Patent granted by King Edward the Fourth. See the Patent at large in *Pygmes Animady.* on 4. Inst. fol. 191.

Justices of the Peace, *Justiciarii ad pacem*,

peace, And they that are appointed by the Kings Commission to attend the Peace of the County where they dwell; of whom some, upon special respect, are made of the *Quorum*, because some business of importance may not be dispatched without the presence or assent of them, or one of them. See *Quorum*. The Office and Power of these is so various, being grounded upon severall Statutes, that we cannot here recite them; concerning which, both *Fitzherbert*, *Lambert* and *Grimston* have written Books to their own great Commendation, and the general benefit of the whole Realm. See also *Smith de Repub. Anglor. lib. 2. cap. 19.* They were called *Guardians of the Peace* till the thirty sixth year of *Edward the Third*, cap. 12. where they are called *Justices*, *Lamb. Eiren. lib. 4. cap. 19. pag. 578.* Their Oath see also in *Lamb. lib. 1. cap. 10.*

Justices of Peace, &c. within Liberties, *Judicarii ad pacem infra libertates*, Are such in Cities and other Corporate Towns, as thoffe 6-thers be of any County, and their Authority or Power is all one within their several Precincts, 27 H. 8. cap. 25.

Justice-Seat, Is the highest Court that is held in a Forest, and is always held before the Lord chief Justice in Eyre of the Forest, upon warning forty days before; and there the Judgments are always given, and the Fines set for Offences, that were presented at the Courts of Attachments, and the Offenders indicted at the *Swainmotes*, concerning which, see *Manwoods Forest-Laws*, cap. 24.

*Justiciar, French Justicier, A Justice or Jus-
ticer, The Lord Birmingham, Justiciar of Ireland,
Baker, fol. 118.*

Justices, Is a Writ directed to the Sheriff, for the dispatch of Justice in some special Cause of which he cannot by his ordinary Power hold Plea in his County-Court. Hereupon the Writ *do excommunicatio deliberando*, is called a *Justicies* in the *Old Nat. Brew.* fol. 35. And the Writ *do bominare replegiando*, Ibid. fol. 41. And the Writ *do secunda superconvoatione postula*, Ibid. fol. 73. There are many Presidents of this in *F. N. B.* fol. 117. in Account, and fol. 152. in Annuity, and fol. 119. in Debt. *Kitchin*, fol. 74. says That by this Writ of *Justicies*, the Sheriff may hold Plea of a great sum, whereas, of his ordinary Author. ty, he can hold no Pleas, but of sums under forty shillings, with whom agrees *Crompton*, fol. 231. It is called a *Justicies*, because it is a Commission to the Sheriff *ad justiciandum aliquem* to do a man justice, and requires no return, or any Certificate of what he hath done, *Braët. lib. 4. traët. 6. cap. 13. num. 2* mentions a *Justicies* to the Sheriff of London, in a Cause of Dover. See the *New Book of Entries*, verbo, *Justicies*.

Justification, Justificatio, Is an affirming or showing good reason in Court, why he did such a thing as he is call'd to answer, as to *justify* in a Cause of Replevin, *Brooks, tit. Replevin*.

Justificatores, Justificatores, seem to signify Compurgators, or such as by Oath *justify* the innocence, Report or Oath of another, as in the case of waging Law; also Jury-men, because they *justify* that Party, for whom they deliver their Verdict. See *Spelman's Gloss.*

The King's Council, and was accordingly

Kalendar month. Mentioned 26 Car. 2. cap. 9. consist of 30 or 31 days, (except in February, which never hath more than 28, unless in Leap-year, and then but 29). The name of which month being those mentioned in the Kalendar make a year, which we call vulgarly in the singular number, *A twelve-month*. But it in the plural number, we say *Twelve-months*, then shall it be accounted a month of weeks, which is but 28 days, See Co. lib. 6. fol. 61. *Cateribus Cale.*

Banctref; according to the description of Mr. Humphrey Lloyd, out of the Laws and Ordinances of *Howick*, a *Kinsey* had its denomination from one hundred Towns, and signifies so much, under which were contained many Commons, which the *Welsh* call *Commons*, and signifies *Province* or *Regis*, and consisted of twelve Mannors or Circuits, and two Townships. We find the word mentioned in *Mag. Ang.* 1488 fol. 319. thus, — *Le premier Conquerreur de tout Banctref de la terre de Brecknock, c'est Bernard de Nemarch Norman.* See *Genres*.

Barle, a Saxon word, properly denoting a Man, but with any addition a Servant or Clown. Hence they called a Sea-man, a *Barke-man*, and a Menial Servant, a *Hufbarle*. See *Hufbarle*. We may read this word frequently in *Selden's Mare Clausum*, *Downfall*, and other ancient Records: And probably from hence by corruption comes the modern word *Charle*.

Barraba sent, A Cartload of Hay, Mon. Aug. parts 1. fol. 54b. See CarrBa.

Bay, *Kaya* & *Caya*, Is a convenient place situated on the shore, for the loading and unloading of Vessels; we commonly call it a *Wharf*. The Verb *Cajare*, in old time (says one) signifies (as Scaliger Reports) to keep in or restrain, and the Ground, where *Kays* are made is forced and kept in with strong Planks and Posts.

Kayage, Kaygium, The Money or Toll paid for Wharfrage, for loading or unloading of Goods or Wares, Rot. par. 1 E. 3. m. 10. and 20 E. 3. m. 1.

Revel., 12 E. 4. cap. 7. See *Biddle*.

Keeper of the Great Seal, *Capit. magn. Angl.*, is a Lord by his Office, and styled **Lord Keeper of the Great Seal of England**: He is one of the Kings Privy-Council; through whose hands pass all Charters, Commissions, and Grants of the King under the *Great Seal*; without which *Seal* all such Instruments by Law are of no force. For the King is in the interpretation of Law a Corporation; and passeth nothing firmly but under the said *Seal*, which is as the publick Faith of the Kingdom in the high esteem and reputation justly attributed thereto. This *Lord Keeper* by the Statute 3 *Eliz.* 18. hath the same Place, Authority, Preheminence, Jurisdiction, Execution of Laws, and all other Customs, Commodities, and Advantages as hath the *Lord Chancellor of England* for the time being. He is constituted, by the delivery of the *Great Seal* to him, and taking his Oath, *Co. 4. Inst. fol. 87.*

Keeper of the Privy Seal, *Custos privati sigilli*, Is a Lord by his Office, through whose hands pass all Charters signed by the King before they come to the Great Seal, and some things which do not pass the Great Seal at all: He is of the Kings Privy-Council, and was anciently called Clerk of the Privy-Seal, 12 R. 2. cap. 11. *Gardien del Privy-Seal*, in Rot. Parl. 13 H. 4. num. 28. And Lord Privy-Seal, and one of the great Officers of the Kingdom, by 24 H. 8. cap. 1.

Keeper of the Touch, 12 Hen. 6. 14. Seems to be that Officer in the Kings Mint, at this day called *The Master of the Assay*. See Mint.

Keeper of the Forest, *Custos Forestarum*, Is also called Chief Warden of the Forest, *Manwood Forest Laws*, part 1. pag. 356. and hath the principal Government of all things, and the cheif of all Officers belonging to the same; and when it pleaseth the Lord chief Justice in Eyes of the Forest to keep his Justice, he sends out his Warrant, or general Summons, to him forty days before, for the warning of all under-Officers, to appear before him at a day assigned in the Summons, which see in *Manwood*, ubi supra.

Kennets, A sort of course Welsh Cloth, mentioned 23 H. 8. 3.

Kernes, Idle Persons, Vagabonds, Necknon *de illis qui dicuntur homines otiosi, & malefactoribus, qui etiam kernys dicuntur*, Ordin. Hibern. 31 E. 3. m. 13. 12.

Kernellatus, Fortified, or according to the old fashion embattell'd; according to which the Duke of Lancaster claimed to him and his Heirs *Castrum suum de Halton*, *Kernellatus*, 31 E. 3. Pl. de quo Warrant. apud Cestriam.

Keyes or keeles, *Culi*, A kind of long Boats, of great Antiquity, mentioned 23 H. 8. 78. *Longa naues quibus Britanniam primo ingressi sunt Saxones*, Spelm.

Kidder, Anno 5. Eliz. cap. 12. says, Every person being a common Badger, Kidder, Lader or Carrier. Whereby it signifies one that Badges, or carries Corn, dead Victual, or other Merchandise up and down to sell, called also *Kyddiers*, 19 Eliz. cap. 25.

Kiddle, Kidel or Medel, *Kiddellus*, A Dam or Wear in a River to catch Fish. The word is ancient, For in Magna Charta, cap. 24. it is said, *Omnes kidelli deponantur de caltro penitus per Thamesiam & Medeweyam & per intam Angliam nisi per Costeram marii*. And in a Charter granted by King John, Power was granted to the City of London, *De kiddellis apovendis per Thamesiam, & Medeweyam*, Anno 1. H. 4. cap. 12. It was among other things accorded, That a Survey should be made of the Wears, Mills, Stanks, Stakes and Kidels in the great Rivers of England. In an Inquisition taken at Derby the 15. of Novemb. 4. Eliz. after the death of Thomas Fenderne, &c. 'Tis said, *Et fuit seiscitus de uno kidello, vocat. a Wear, ac de libere piscaria in Postok etc. Bundello* 3.

Kilkeith, An ancient servile kind of Payment, for in an old Manuscript 'tis thus written, *Kilkeith pro qualibet Hundredo 2. denar.*

King, *Rex*, Is thought by Camden in his Brit. pag. 105. to be contracted from the Saxon word *Cuning* or *Coning*, signifying him that hath

the highest Power, and absolute Rule over the whole Land; and therefore the King is in intendment of Law cleared of those defects which common persons are subject to; for he is always supposed to be of full age, although never so young, *Crompt. Jur. fol. 134. Kitchen, fol. 1.* He is taken as not subject to death, but as a Corporation in himself; *Crompt. ibid.* He is *supra Legem* by his absolute Power, *Bract. lib. 1. cap. 8. Kitchen, fol. 1.* And though for the better and more equal course in making Laws, He do admit the three Estates, that is, Lords Spiritual, Lords Temporal, and the Commons unto Council; yet this derogates not from his Power; for whatever they Act, He by his negative Voyce may quash. See concerning this, *Smith de Rep Anglor. lib. 1. cap. 4. and Bracton, lib. 2. cap. 16. num. 3. and Britton, cap. 39.* He pardoneth Life and Limb to Offenders against his Crown and Dignity, except such as he bindeth himself by Oath not to forgive, *Stamf. pl. cor. lib. 7. cap. 35.* And *Habet omnia jura in manu sua*, *Bracton, lib. 2. cap. 24. num. 1.* He may alter or suspend any particular Law that seems hurtful to the Publick, *Blackwood in Apologia Regum, cap. 14.* For the Kings Oath, see *Bracton, lib. 3. cap. 9. num. 2.*

Again, The Kings only Testimony of any thing done in his presence, is of as high nature and credit as any Record; Whence it comes, That in all Writs or Precepts sent out for the dispatch of Justice, He useth no other Witness than himself, always using these words at the end, *Teste Maiest.* Lastly, He hath in the right of his Crown many Prerogatives above any common person, be he never so potent and honourable; whereof you may read at large in *Stamfords Treatise* upon the Statute thereof made 17 E. 2. Also in *Bracton, lib. 2. cap. 24. num. 1 & 2.*

King of Heralds, *Rex Heraldorum*, Is a principal Officer at Arms, that hath the Pre-eminence of the Society. See Herald and Garter. Among the Romans he was called *Pater Patrius*.

King of the Minstrels, His power and Priviledge appears by the following Charter.

*Joban per le grace de Dieu, Roy de Castile & de Leon, Duke de Lancastre, a tous ceux, que ce-
ste nos lettres verront ou oiront. Saluz saches nous
avoir ordonnez constitué et assignez nostre bien ame
le Roy des Minstraulx deins nostre Honneur de
Tutbury quare est, ou qui pur le temps sera pur
prendre et arrester tous le Minstraulx deins meisme
nostre Honneur & Franchise, queux refusount
de fair leur services & Minstrelay as euz ap-
purtenants, a faire de anciens temps a Tutbury
suis dis annuellement les jours del assumption de
nostre Dame. Donans & grantans au dis Roy
des Minstraulx pur le temps esteans plein poyer
& mandement de les faire resonablement, justifier
et constrre de faire leur services & Minstrel-
eyes en maner come appeint, & come illoques ad
este use & de anciens temps accoustume. En Testi-
moignance de quel chose nous avons fait faire
cestes nos Letres Patens, don souz nostre Privy-
Seal a nostre castel de Tutbury le xxii. jour de
August le an de Regne nostre tresdulces le Roy
Richard Second, quart. Confirmé by Hen. 6.
22. Feb. 21. year of his Reign.*

Kings Bench, Bancus Regius, Is the Court or Judgment Seat, where the King of England was sometimes wont to sit in his own Person; and therefore it was moveable with the Court or Kings Household, and called *Curia Domini Regis*, and *Aula Regia*, as *Gwin Reports* in the Preface to his Reading; and that therein, and in the Court of Exchequer, which were the only Courts of the King till Henry the Thirds days, were handled all matters of Justice, as well Civil as Criminal. This Court of the Kings Bench was wont in ancient Times to be specially exercised in all Criminal Matters, and Pleas of the Crown, leaving the handling of private Contracts and Civil Actions to the Common-Pleas, and other Courts. *Glanville lib. 1. cap. 2, 3, 4. and lib. 10. cap. 18. Smith de Rep. Angl. lib. 2. cap. 11. Co. 4. Inst. fol. 70.* and hath president of it, the Lord Chief Justice of England, with three or four Justices Assistants; or according to *Fortescue. cap. 51.* four or five, and Officers thereto belonging, the Clerk of the Crown, a Protonotary, and other inferior Ministers and Attorneys. See *Justice of the Kings Bench.*

Kings Silver, Is properly that Money due to the King in the Court of Common Pleas pro *licentia concordandi*, in respect of a Licence then granted to any man for passing a Fine, *Co. vol. 6. fol. 39. & 43.*

Kings Swanherd, Magister deductus Cygnorum, *Pat. 16. R. 2. Pars 1. m. 38. Radulphum Scot Custodem Cygnorum hospitium, &c.* No Fowl can be a Stray but a Swan, *Co. 4. Inst. fol. 280.*

Kintal, Is a certain Weight of Merchandise, most commonly of one hundred pounds; or something under or over, according to the several uses of divers Nations. *Plowden fol. 3.* mentions 1000 Kintals of Wood in the Case of *Reniger and Fogassa.*

Kirbyes Quest, Is an ancient Record remaining with the Remembrancer of the Exchequer, the meaning and Etymology whereof will appear by what follows. *Memorandum, quod anno Domini 1277. Anno Regis Regis Edwardi filii Regis Henrici quinti, missi idem Rex per totam Angliam Ballivos inquirere, sub juramento & in secreto de universis terris Anglie per Johannem de Kirby thesaurarium suum, quisquis teneret & cujus feodi & quantum & cujus Regis tempore feffati essent. Ex Regist. Glaston. Cznobii penes Raif. Sheldon Ar. fol. 74.*

Knappe, An old Saxon word for a Man-Servant, and so is used; *14 E. 3. Stat. 1. cap. 3.* And *Vorshegan* in his *Restitution of decayed Intelligence*, c. 10. believes it is borrowed of the Dutch *Chapra*, which signifies the same thing. And that is some kind of Officer or Servant, as *Scilicet Knappa* was he that bore the Weapon or Shield of his Superior, whom the Latines call *Armigerum*; and the French *Escuyer.*

Knight, Milite, Is almost one with the Saxon *Comit*; with us it signifies a person that beareth Arms, who for his virtue, and specially Martial Prowess, is by the King, or one having the Kings Authority, singled from the ordinary sort of Gentlemen, and raised to a higher step of Dignity. This among all Nations, takes his Name from the *Hofst*, because in ancient times they

served in the War on Horse-back. The Romans called them *Equites*: The Italians term them *Cavallieri*: The French *Chevaliers*: The Germans *Reyters*: The Spaniards *Gavalleros*, &c. It appears by the Stat. *Anno 1 E. 2. cap. 1.* That in ancient times a Gentleman having a full *Knights Fee*, and holding his Land by *Knights-service*, might be urged by distress to procure himself to be made Knight when he came to full age. But by the Statute *17 Car. 1. cap. 20.* It is Ordained, That no man shall be compelled to take the Order of *Knights-hood*, &c. The manner of making *Knights*, *Camd. in his Brit. pag. 111.* shortly expresseth in these words, *Notum vero temporibus qui equestrem dignitatem suscipit, flexu genuum educto gladio leviter in humero percussitur. Princeps hunc verbum Gallice effatur, soit Chevalier au nom de Dieu,* that is, *ses eques nomine Dei.* The solemnity of making *Knights* among the Saxons, *Stow* mentions in his *Annals*, pag. 159. See the Privileges belonging to a Knight in *Fernes Glory of Generosity*, pag. 116. Of these there be two sorts, *Knights Spiritual and Knights Temporal*, *Cassanavi in gloria Mundi*, part. 9. considerat. 2. Discourses at large of them. The temporal or second sort of *Knights*, *Ferne* in his *Glory of Generosity*, pag. 103. makes here among us three-fold, *Knights of the Sword*, *Knights of the Bath*, and *Knights of the Garter*, *Skene de verbis.* Significat. verbo *Milites*, faith, That in the ancient Laws of Scotland, Free-holders were called *Milites*, which may seem to have been a Custom with us. Also by divers places in *Bracton*, who faith, That *Knights* must be in Juries, which turn Free-holders do now serve. See *Seldens Titles of Honor*, fol. 770.

Knights of the Garter, Equites Garterii, or *Periscelidis*, are an Order of *Knights* first created by King Edward the Third, after he had obtained many notable Victories, who, for furnishing of this Honorable Order, made a choice out of his own Realm, and all Christendom, of the best and most excellently Renowned Knights in Virtue and Honor, bestowing this Dignity upon them, and giving them a blue Garter, decked with Gold, Pearl, and Precious Stones, and a Buckle of Gold, to wear daily on the left Leg only, a Kirtle, Crown, Cloak, Chaperon, a Collar, and other stately and magnificent Apparel, both of stuff and fashion; exquisite and heroicall to wear at high Feasts, as to so high and Princely an Order was meet. Of which he and his Successors, Kings of England, were ordained Sovereigns, and the rest Fellows and Brethren, to the number of twenty six, *Smith de Rep. Anglor. lib. 1. cap. 20.* This Honorable Society is a Colledge or Corporation, having a common Seal belonging to it, and consisting of a Sovereign Guardian, which is the King of England, that always Governs this Order by himself, or his Deputy; Of twenty five Companions called *Knights of the Garter*, of fourteen secular Chanoys that be Priests, or must be within one Year, after their admision; thirteen Vicars, also Priests, and twenty six poor Knights, that have no other Sustainance, or means of Living, but the allowance of this House, which is given them in respect to their daily Prayer to the honor of God and St. George. There be also certain Officers belonging to this Order, viz. The Prelate of the

Garter, which Office is inherent to the Bishop of *Winchester* for the time being; the Chancellor of the Garter; the Register, who is always Dean of *Windsor*; The Principal King at Arms, called *Garter*, whose chief business is to manage and marshal their Solemnities at their yearly Feasts and Installations. Lastly, The Usher of the Garter, who is also the Usher of the *Black-Rod*. The site of this Colledge is the Castle of *Windsor*, with the Chappel of *St. George*, erected by *Edward the Third*, and the Chapter-House in the said Castle, and their Solemnity upon *St. George's* day. *Camden* saith, This Order receiv'd great Ornament from *Edward the Fourth*. *Fernes Glory of Generosity*, pag. 120. And that most Pious Prince *Charles the First*, as an addition to their Splendor, ordered all the Companions of the Order to wear on the left side of their upper Garment, the Cross of *England* encircled with the Garter and Motto, from whence round about are cast beams of Silver like the Rays of the Sun in full lustre. See *Garter*. I hear of a large Tract concerning this Order, written by *Elias Ashmole Esq;* which see for further satisfaction.

Knights Banneret, See *Banerets*.

Knights of the Bath, *Milites balnei vel de balneo*, Are an Order of *Knights* made within the Lists of the Bath, and girded with a Sword in the Ceremony of his Creation, *Fernes Glory of Generosity*, 105. These are spoken of 8 E. 4. cap. 2. For the Antiquity and Ceremony of their Creation, see Mr. *Dugdales Description of Worcestershire*, fol. 531, 532. They are so called from Bathing the night before their Creation. They take place of *Knights Batchelors*, but come after *Baronets*.

Knights of the Order of St. John of Jerusalem, *Milites Sancti Johannis Hierosolymitani*, were an Order of *Knights* made that began about the year of our Lord, 1120. *Honorius* being Pope, they had their denomination from *John the Charitable Patriarch of Alexandria*, though vowed to *St. John the Baptist* their Patron, *Fernes Glory of Generosity*, pag. 127. They had their Primary abode at first in *Jerusalem*, and then in the *Isle of Rhodes*, until they were expelled thence by the *Turks*, Anno 1523. Since which time their chief Seat is in the *Isle of Malta*, where they have done great Exploits against the *Infidels*, but specially in the year 1595. They live after the Order of *Fryers*, under the Rule of *St. Augustine*. Of whom mention is made in the Stat. 25 H. 8. cap. 2. and 26 H. 8. cap. 2. They had in *England* one general Prior that had the Government of the whole Order within *England* and *Scotland*, *Reg. Orig.* fol. 20 and was the first Prior of *England*, and sat in the Lords House of Parliament. But towards the end of *Henry the Eighth's* days, they in *England* and *Ireland* being found overmuch to adhere to the Pope against the King, were suppressed, and their Lands and Goods given to the King, by 32 H. 8. 24. The occasion and propagation of this Order more especially described, you may read in the Treatise, entitled, *The Book of Honor and Arms*, lib. 5. cap. 18. written by Mr. *Richard Jones*.

Knights of Malta. See *Knights of the Order of St. John of Jerusalem*.

Knights of the Rhodes, 32 H. 8. 24. See *Knights of the Order of St. John of Jerusalem*.

Knights of the Temple, *Templarii*, Otherwise called *Templers*, was an Order of *Knights* instituted by Pope *Gelasius*, about the year of our Lord, 1117. and so called, because they dwelt in a part of the Building belonging to the Temple at *Jerusalem*, not far from the Sepulchre of our Lord. They entertained Christian Strangers and Pilgrims charitably, and in their Armour led them through the Holy Land, to view the Sacred Monuments of Christianity, without fear of *Infidels*. This Order increasing and continuing by the space of 200 years, was far spread in Christendom, and namely here in *England*; but in process of time, some of them at *Jerusalem* being (as some report) found to fall away to the *Saracens* from Christianity, or rather, because they grew too potent, the whole Order was suppressed by *Clemens Quintus*, 1309. and by the Council of *Vienna*, 1312. and their Substance given partly to the *Knights of St. John of Jerusalem*, and partly to other Religious, *Cassan. de gloria Mundi*, part. 9. consid. 5. and *Anno 1. cap. 24*. These flourished here in *England* from *Henry the Second's* days, till they were suppress'd. They had in every Nation a particular Governor, whom *Braddon lib. 1. cap. 10.* calls *Magistrum militiae Templi*. The Master of the Temple here was summoned to Parliament, 49 H. 3. m. 11. in *Schedula*; and the chief Minister of the Temple Church in *London* is still called Master of the Temple. Of these *Knights*, read *Dugdales Antiquities of Warwickshire*, fol. 706. In ancient Records, they were also called *Patres Militia Templi Solomonis*, *Mon. Ang.* part. fol. 554.

Knights of the Chamber, *Milites Camera*, mentioned in 2 *Inst.* fol. 666. And in *Rot. Pat.* 29 E. 3. part. 1. m. 29. seem to be such *Knights Batchelors* as are made in time of Peace, because *Knights* commonly in the Kings Chamber, and not in the Field, as in time of War.

Knights of the Shire, *Milites Comitatus*, otherwise called *Knights of the Parliament*, are two *Knights*, or other Gentlemen of worth, that are chosen in *Pleno Comitatu*, by the Free-holders of every County that can dispend 40 s. per annum, and be resident in the Shire, *Anno 1 H. 5. cap. 1. & 10 H. 6. cap. 2.* upon the Kings Writ, to be sent to the Parliament, and there to consult and advise concerning the Publick Affairs of the Realm: These, when every Man that had a *Knights Fee*, were constrained to be *Knights*, were of necessity to be *Milites gladio cincti*, and so the Writ still runneth, *Crompt. Jur.* fol. 1. But now Custom allows *Esquires* to be chosen to this Office, 23 H. 6. 6. So that they be resident in the County. For the choice of these *Knights*, See the Statutes, 7 H. 4. 15. 11 H. 4. 1. 6 H. 6. 4. 8 H. 6. 7. 23 H. 6. 15. with others; and the New Book of Entries, verbo *Parliament*. Their Expences are to be born by the County during the Parliament, 35 H. 8. 11. but that is of late disused in some measure.

Knight Marshal, *Marescallus Hospitii Regis*, Is an Officer in the Kings House, having Jurisdiction and Cognisance of any Transgression within the Kings House and Verge, as also of Contracts made there, whereunto one of the House is Party, *Reg. Orig.* fol. 185. & 191. and *Spelmans Gloss.* in verbo *Marescallus*.

Knight Service, *Servitium militare*, was a Tenure.

Tenure whereby several Lands in this Nation were held of the King, which drew after it Homage, Escuage, Wardship, Marriage, &c. but taken away by 12 Car. 2. cap. 24. In *Doomsday Book* some Land holden by *Knights-service* is called *Tainland*, and Land holden by *Socage*, *Reveland*, fol. 86. 2.

Knights Fee, *Feodum militare*, Is so much Inheritance as is sufficient yearly to maintain a Knight with convenient Revenue, which in Henry the Thirds days was 15 li. *Camd. Brit. pag. 111.* B. & Sir Thomas Smith in his *Repub. Angl. lib. 1. cap. 18.* rate it at forty pounds. And I find in the Statute for *Knights*, Anno 1 E. 2. cap. 1. that such as had twenty pounds in Fee, or for term of Life, might be compelled to be *Knights*; but this Statute is repealed 17 Car. 1. cap. 20. Stow in his *Annals*, pag. 285. faith, There were found in England, at the time of the Conqueror, 60211 *Knights Fees*: Others say 60215, whereof the Religious Houses, before their suppression, were possessed of 28045, — unde ob Carucata terra faciunt feodum unius militis, Mon. Ang. 2. par. fol. 825. Of this you may read more in *Seldens Titles of Honor*, fol. 691. and *Bract. lib. 3. tra. 1. cap. 2.* and *Co. on Lit. fol. 69.* A *Knights Fee* contained twelve Plow-lands, 2 par. *Inst. fol. 596.* or six hundred Acres of Land. *Knights Fee* is sometime used for the Rent that a *Knights* payeth for his Fee to his Lord, of whom he holdeth; and this was uncertain, as appears by *Bracton, lib. 5. tra. 1. cap. 2.*

Knights-gild, Was a Guild in London, consisting of nineteen *Knights*, which King Edgar founded, giving unto them a Portion of void Ground, lying without the Walls of the City, now called *Port-foken Ward*, *Stow's Annals*, pag. 151. This in *Mon. Ang. 2. par. fol. 82.* is written *Cniutenegild*.

Kyddiers, 13 Eliz. cap. 25. See *Kydder*.

Kylw, — Et sint quieti de passu & Kylyw & omnibus aliis exactionibus, quas Forestarii & alii ballivi solent exigere, Mon. Ang. 1. par. fol. 722. Perhaps it might signifie some Liquid thing, exacted by Foresters. See *Scotale*. We have to this day in the North the word *Kyle*, which the Country people use for liquid Viuals.

L

Laborarius, Is a Writ that lies against such as having not whereof to live, do refuse to serve, or for him that refuseth to serve in Summer where he served in Winter, *Reg. Orig. fol. 189.*

Laches, Cometh of the French *Lascher*, id est, *Laxare*; or *Lasche*, *ignavus*, and signifies slackness or negligence, as appears in *Littleton*, fol. 403 & 726. where *Laches* of Entry is nothing else but a neglect in the Heir to enter; whereupon, I take liberty to guess, that it may be an old English Word, as when we say, There is *Laches* of Entry, it is all one as it we should say, There *lack* is of Entry, or there is *lack* of Entry; and indeed it hath no other signification, for so is it used, *Lit. fol. 136.* and *Old Nat. Brev. fol. 110.*

So where a man ought to make or do a thing, and he makes or does it not, I of his *Laches* cannot have an Assise, but must take an Action upon the Case. See *Co. on Lit. fol. 246.* & 380.

Laforðswick, Is derived from the Saxon *Hlaforð Dominus* & *twic proditus*, *Infidelitas erga Dominum*, a betraying ones Lord or Master. In the Laws of Henry the First, cap. 13. *Quadam Placita emendari*, (i. *Quadam crimina expiari*) non possunt; Husbrech, Berner, Openese, Ebermath, and *Laforðswick*, which word is also found in *Canutus Laws*, cap. 61. which some Authors have written corruptly *Labordswib*.

Laga, Lex, The Law, *Lagam* Regis Edwardi robur eddo, cum illi emendationibus, quibus Pater meus eam emendavit, says *Magna Charta*. Hence we deduce *Saxon-lage*, *Mercen-lage*, *Danc-lage*, &c.

Lageman, *Homo habens legem*, or as we term it, *Homo legalis*, such as we now call *Good men of the Jury*, which in the Writ are stiled, *Probus & legales homines*. The word is frequently used in *Doomsday*, and in the Laws of Edward the Confessor, cap. 38. Thus *Posses inquisisset Justicia per Lagamannos, & per meliores homines de burgo, &c.*

Lagen, *Lagena*, *Fleta*, lib. 2. cap. 8, 9. In ancient time it was a Measure of six *Sextarii*. *Donatio insuper de sex Lagenis olei annuatim*. Ca. 2, 2 E. 3. m. 25. n. 82. See *Minsfel*.

Lagon or Lagan, Is such a parcel of Goods as the Mariners in danger of Shipwrack cast out of the Ship, and because they know they are heavy and sink, they fasten to them a Buoy or Cork, that so they may find and have them again. If the Ship be drowned, or otherwise perish, these Goods are called *Lagon* or *Ligan*, a ligando; and so long as they continue upon the Sea, they belong to the Admiral, but if they are cast upon the Land, they are then called a *Wreck*, and belong to him that hath the *Wreck*, as appears in *Co. lib. 5. fol. 106.*

Lacerta, Is a Word mentioned in *Doomsday Book, and there signifies a Farhome.*

Lahslite, Laglute, Laghlite, Transgressio Legis, A breach of the Law, and sometimes the punishment for breaking the Law. *Si quis Dei rebusdines per vim tenuerit, solvat Lahslite cum Dacis, plenam Wyrati cum Anglis*, Leg. Hen. 1. cap. 17. Lamb. *Explic. of Saxon Words*, verbo *Multra*.

Lairwite, Lecherwite and Legegeldum, *Pena vel multa offendentium in Adulterio & fornicatione*, which Priviledge did anciently belong to some Lords of Mannors, in reference to their Villains and Tenants, which *Fleta*, lib. 1. cap. 47. seems to infer. See *Ca. 4. Inst. fol. 206.*

Lailed-litts, Anno 1 R. 3. cap. 8.

Lammas-day, Is the first of August, so called, quasi *Lamb-quid*, on which day the Tenants that held Land of the Cathedral Church of York, which is dedicate to St. Peter ad vincula, were bound by their Tenure to bring a living Lamb into the Church at High Mass. See *Gule of August*.

Landa, An open Field without wood.

Landsbot, A Charter or Deed, whereby Lands or Tenements are given, or held, sic *Anglia Saxone*.

Saxones; Chartas & instrumenta, nuncupant, prædiorum Sessiones, iura & firmitates continentia, says the Learned Spelman; And we read in Concil. Synodali. apud Clouesbo. Anno Doin. 822. ut præfata Abbatissa prænominatam terram & cum libris quos Angli dicunt Land-boc, — in perpetuum hereditatem traderet.

Landegandman, Was according to *Spelman* one of the inferior Tenants of a Mannor; the word is used in *Customar. de Hecham.*

Land-cheap, An ancient customary Fine paid either in Cattel or Money at every alienation of Land lying in some peculiar Mannor, or the liberty of some Borough. As at Maldon in Essex, there is yet a custom, that for certain Houses and Lands sold within that Borough, thirteen pence in every Mark of the Purchase-Money shall be paid to the Town; and this Custom of *Land-cheap* they claim *inter alia*, by a Grant made to that Town by the Bishop of London, Anno 5 H. 4. *Sommer* in his Saxon Dictionary says, *Landecap est fortasse pretium fundi passio datum vel debitum.* The word is also read in *Spel. de concil. vol. 1. fol. 502.*

Land-gable, Is a Tax or Rent issuing out of Land, according to *Doomsday, Censui prædiali vel tributum quod a prædii colligitur*; that is, says *Spelman*, a penny for every House; the Welsh use *Pridgawel* for *Landgabel*.

Landimeters, *Agrimensores*, Measures of Land so called of old, *Landimera autem est terra lines vel metra.*

Land-man, *Terricola*, The *Terre-Tenant*.

Land-tenant, Is he that actually possesses the Land, or hath it in his manual Occupation, 14 E. 3. Stat. 3. cap. 3. 23 E. 3. cap. 1. 26 Ed. 3. Stat. 3. cap. 2. See *Terre-Tenant*, & 12 R. 2. cap. 4. & 4 R. 4. cap. 8. it is joyned with this word Possessor, as *Synonymon*, Anno 1 H. 6. cap. 5. See *Terre-tenant*.

Langemanni, *Item in ipsa civitate erant 12 Langemanni, i. habentes Socam & Sacam*, *Doomsday, viz. Lincolnshire.*

Land, Terra, is a general and legal signification, includeth not only all kinds of Grounds, as Meadow, Pasture, Arable, Wood, &c. but Houses and all Edifices whatsoever; but in a more restrained sense it is taken only for Arable Ground, *Co. on Lit. lib. 1. cap. 12. fol. 14. says, Terra est nomen Generalissimum & comprehendit omnes species terre*, but properly, *terra dicitur accedendo, quia comere soletur*; and anciently it was written with a single *r*, and in that sense includes whatever may be Plowed. The Earth hath in Law a great extent upwards, for *Cujus est solum ejus usque ad caelum*, *Co. 9. Rep. Alureds Case.*

Landis de crescentia Vallis traducendis alique Custumia, &c. Is a Weir that lyeth to the Customer on a River, for the permitting one to pass over Wholes without Customs, because he hath paid Customs in Wales before. See the *Register*, fol. 279.

Lapse, Lapsus, Is the omission of a Patron to present to a Church, within six months after voidable; by which neglect, title is given to the Ordinary to collate to the said Church: We say, that Benefice is in *lapse*, or *lapsed*; whereunto he

that ought to present hath omitted or slipped his opportunity, 13 Eliz. cap. 12. This *Lapse* happens, as well the Patron being ignorant of the avoidance, as Privy, except only upon the resignation of the former Incumbent, or the deprivation upon any cause comprehended in the Statute 13 Eliz. 12. *Panor. in cap. quis diversitatem*, num. 7. *de concess. Præbend. &c.* In which cases the Bishop ought to give notice to the Patron.

Larceny, Latrocinium, Is a wrongful taking away another mans Goods, with a mind to steal them; and it is derived of the French *Larcen*, i. *furtum*; and in respect of the thing stolen is of two sorts, viz. Great, which is called *Theft* simply, where the things stolen exceed the value of twelve pence, and that is Felony. And *Petty Larceny*, when the Goods stolen exceed not the value of twelve pence, *West. part. 2. Symb. iii. Indictments.* But he differeth from *BraBou*, lib. 3. *traB. 2. cap. 32. num. 1.* Of this see more *Stamf. Pl. Cor. lib. 1. cap. 15, 16, 17, 18, 19.* See also *Spelman*, who calls *Minuta furtis*, *Petty Larcenies*, ex *Asthis*, Hen. 2. *Clarendonia editio*, &c.

Larons, Is the French Word for Thieves. In the Statute for view of *Frank-pledge* made 18 E. 2. the fourteenth Article, to be given in charge at a Leet, is of *Petty Larons*, as of *Geefe*, *Hens*, &c.

Lastlite, It denoted the Danish common Forfeiture, which was twelve Ores, every Ore valuing about sixteen pence sterling, *Seldens History, of Tyber*, pag. 203.

Last, Signifies in general a Burden, and particularly a certain Weight or Measure. As a *Last* of Pitch, Tar or Alfes, contains fourteen Barrels, 32 H. 8. 14. A *Last* of Hides or Skins, twelve dozen, 1 Jac. 33. A *Last* of Codfish, twelve Barrels, 15 Car. 2. 7. A *Last* of Herring contains twenty Cades, or ten thousand, every thousand ten hundred, and every hundred fiftieth, 31 H. 3. stat. 2. cap. 2. A *Last* of Corn, &c. is ten Quarters. A *Last* of Wool is twelve Sacks. A *Last* of Leather is twenty Dickers, and every Dicker ten Skins; Of unpack'd Herrings, eighteen Barrels make a *Last*: Also *Last* in the Marshes of *East Kent*, signifies a Court held by twenty four Jurats, and summoned by the two Bayliffs thereof, wherein they make Orders, lay and levy Taxes, &c. for the preservation of the Marshes. See the *History of Imbanking and Drayning*, fol. 54.

Last heyre, Ultimus heres, Is he to whom Land comes by Escheat, for want of lawful Heirs, that is, the Lord of whom they held in some cases, but in others the King. *Quippe Rex omnium hereditum ultimus est*, *an Oceanus ultimus finis mundi receptaculum*, *Bract. lib. 7. cap. 17.*

Lastage or Lettage, Letagium, Is a Custom exacted in some Fairs and Markets, to carry things where one will, according to *Rassat*. But 23 R. 2. cap. 18. it is taken for the Ballast of a Ship. In a Charter of Hen. 3. to the Monastery of *Scrimplingham*, we read — *Et sint quieti de Theolonio & Pontagio, & Passagio, & Padagio, & Lettagio*, &c. where we must take it in the former signification. So also in *Diplom. H. 1. de libertatibus Londou*, we find; *Omnes bandides London sint quieti & liberi & omnes res eorum per totam Angliam & per portus maris, de Theolonio, & Passagio, & Lettagio*.

gio, & ab omnibus aliis consuetudinibus, Lastage, according to others, is properly a Custom paid for Wares sold by the Last.

Lathe, Lastum, Is a great part of a County, sometimes containing three or more Hundreds, as in Kent and Suffex. See *Leges Edw. Conf. cap. 35.* & *fini quieti de seclis Comitatum*, Leth, Hundred & auxilium Vice-comitum, Pat. 1 H. 4. part. 8. m. 8.

Latimer, Seems to be used by Sir Edward Coke for an Interpreter, 2. par. Inst. fol. 515. I suppose the word is mistaken, and should be *Latiner*, because heretofore he that understood Latine, which, in the time of the Romans, was the prevailing Language, might be a good Interpreter.

Latitat, Is the name of a Writ, whereby all men in personal Actions are called originally to the King's Bench, *F. N. B. fol. 78.* And it hath the Name, as supposing that the Defendant doth lurk and lie hid; and therefore being served with this Writ, he must put in security for his appearance at the day, for *Latitare est se militiose occultare, animo fraudandi creditores suos egere volentes.* But the true original of this Writ was this, In ancient time, while the King's Bench was moveable, and followed the King's Court, the Custom was, upon the commencing of a Suit, to send forth a Writ to the Sheriff of the County where the Court lay, for the calling him in, and if the Sheriff returned, *Non est inventus in Balliva mea, &c.* then was there a second Writ sued forth, that had these words, *Cum testatum est quod Latitat, &c.* and thereby the Sheriff commanded to attach him in any other place where he may be found. Now when the Tribunal of the King's Bench came to be settled at Westminster, the former course of Writ was held for a long time, first sending to the Sheriff of Middlesex to summon the Party, and if he could not be found there, then to apprehend him wheresoever, but afterwards upon pretence of easing the Subject, and expediting Justice, it was contrived to put both these Writs into one, and so originally to attach the Party complained of, upon a supposal or fiction, that he was not within the County of Middlesex, but lurking elsewhere, and that therefore he was to be apprehended in any place else, where he was presumed to lye hid, by a Writ directed to the Sheriff of the County where he is suspected to be. And by this Writ a man being brought in, is committed to the Marshal of the King's Bench, in whose Custody, when he is, he may be sued upon an Action in that Court.

Latine, False Latine shall not quash an Indictment, nor abate any Declaration; for although the original Writ shall abate for false Latine, yet judicial Writs, or a Fine, shall not be impeached for false Latine. See *Co. 5. Rep. Long's Case.* But if the word be not Latine, nor a word allowed by the Law, as *Vocabulum artis*, (as every Art and Science hath its proper terms) but be insensible; and if it be in a material point, this makes the Indictment insufficient, as *Burglariter, murderum, felonice*, and the like, be terms of Art well known in the Law; and therefore if these words, or the like, be mistaken in an Indictment, so that in a material place there is an insensible word, which is not Latine, nor any word known

in the Law, this will make the Indictment vitious and insufficient.

Launcrager, Anno 7 R. 2. cap. 13. Were a sort of Weapons now disused, being prohibited by the said Statute.

Law, Lex, In the general signification is plain, and by Bracton thus defined, *Lex est sanctio iusta, iubens honesta & prohibens contraria*: And the divine School-man sayes, *Lex humana est quoddam distamen rationis, quo diriguntur hominum Actus.* This in our Land hath been variable. First, *Molmutius Laws*, translated out of the British Tongue into Latine by Gildas, of which we find no obscure Remaners in our Laws now in use. See *Mag. Cart. cap. 1. & 14.* Secondly, *Marchmages*, mentioned in *Cand. Brit. pag. 94.* and *Polyd. in Hist. Angl. lib. 5.* Thirdly, *West-Saxon laws.* And fourthly, *Danelage*, All reduced into a Body, and made one by Edward the Confessor. At present the Law of England is divided into three parts: 1. The Common Law, which is the most ancient and general Law of the Realm. 2. Statutes, or Acts of Parliament. And 3. Particular Customs, *Co. on Lit. fol. 15.* Law hath an especial signification also, wherein it is taken for that which is lawful with us, and not else-where: As Tenant by the Curtesie of England, 13 E. 1. 3. And again, to wage Law, *Vadiare legem*, and to make or do Law, *Facere legem*, Bracton, lib. 3. tract. 2. cap. 37. whereof the first, *sc. Vadiare legem* is to put in security, that he will make Law at a day assigned, *filarsvil. lib. 1. cap. 9.* And to make Law, is to take an Oath, that he owneth not the Debt challenged at his hand, and also to bring with him so many men as the Court shall assign to avow upon their Oath, that in their Consciences he hath sworn truly. And this Law is used in Actions of Debt, without speciality; as also where a man coming to the Court after such a time, as his Tenements, for default, be seized into the Kings hands, will deny himself to have been summoned, *Glanville, lib. 1. cap. 9. & 12. Kitebin, fol. 164.* This is borrowed from Normandy, as appeareth by the *Grand Customary*, cap. 85. But Coke in his 4. Rep. fol. 95. *Slade's Case*, sayes, It springs originally from the Judicial Law of God, alledging for it the twenty second Chapter of *Exodus*, verse 7. The *Judiths* call them that come to purge the Defendants, *Sacramentales, lib. feud. tit. 4. sect. 3. & tit. 10. & 26.* And the Civilians call them *Purgatores.* *Specimen* sayes, *Legem vadiare est cautionem dare de perimplendo legem exigentiam in re litigata; ut de prestando Sacramento ad Indictum dicitur cum indicto consecrationem seu conjurationum numero.* Anciently *Laga* was used as Latine for Law, as *Lagam Regis Edwardi vobis reddo, &c.* *Magna Charta*, H. 1. 1 R. 3. cap. 2. 31 H. 6. cap. 6. Our Common Laws are properly and aptly termed *Leges Anglie*, because they are appropriate to this Kingdom of England, and have no dependance upon any Foreign Law whatsoever, *Co. 2. par. Inst. cap. 9.* These are the Birth-Right, and the most ancient and best Inheritance the Subjects have. *Co. on Lit. lib. 2. cap. 12. sect. 213.* and in his Preface to the sixth Report. All Books written in the Law are either Historical, as the *Year-Books*; Explanatory, as *Stamford's Treatise of the Prerogative*; Miscellaneous, as the *Abridgments*; Or Monological, being of one certain Subject,

ject, as *Stamford's Pleas of the Crown*, Lambert's *Justice of Peace*. See *Fulbeck's Parallels*, cap. 3.

Lawyer, *Regis peritus*, *Juris consultus*, The Saxons called him *Labman*.

Law of Armes, *Jus militare*, Is a *Law* that giveth Precepts and Rules concerning War, to make and observe Leagues and Truce, to punish Offenders in the Camp, and such like; for farther knowledge whereof, read such as write *De Jure Belli*.

Law of Merchants, *Lex Mercatoria*, Is a Privilege, or special *Law*, differing from the Common *Law of England*, proper to Merchants, and summary in Proceedings, 27 E. 3. Stat. 8. 9, 19. 20. 13 E. 1. Stat. 3. See *Co. on Lit.* fol. 182.

Law Spiritual, *Lex Spiritualis*, Is the Ecclesiastical *Law*, allowed by the *Laws* of this Realm, being not against the Common *Law*, nor against the Statutes and Customs of the Realm, according to which the Ordinary, and other Ecclesiastical Judges do proceed in Causes within their Cognisance, *Co. on Lit.* fol. 344.

Law of the Staple, 27 E. 3. Stat. 2. cap. 22. Is the same with the *Law of Merchants*. See 4 *Inst.* fol. 237, 238. and *Staple*.

Law of Marque. See *Reprisals*. This word is used Anno 27 E. 3. Stat. 2. cap. 17. and cometh from the German word *March*, i. limes, a Bound or Limit, because they that are driven to this *Law* of Reprisal, do take the Ships and Goods of him by whom they have received wrong, and cannot get ordinary Justice, when they meet with them in their own Precincts or Territories. See 9 H. 7. fol. 21. & *Smith de Rep. Ang.* lib. 2. cap. 21.

Lawday, Is otherwise called *View of Frank-Pledge*, or Court-Leet, *Crompt. Jur.* fol. 160. and is used for the County-Court. 1 E. 4. cap. 2.

Lawing of Dogs, *Expeditio canum*, Mastiffs must be lawed every three year, *Crompt. Jur.* fol. 163. that is, three Claws of the Fore-foot shall be cut off by the Skin, *Charta Foresta*, cap. 6. or the Ball of the Fore-foot cut out. See *Expeditio & Pellota*.

Lawless Court, On *Kingshill* at *Rochford* in *Essex*, on Wednesday Morning, next after *Michaelmas* day, at Cock-crowing, is held a Court, vulgarly called *The lawless Court*. They whisper, and have no Candle, nor any Pen and Ink, but a Coal, and he that owes Suit or Service, and appears not, forfeits double his Rent every hour he is missing. This Court belongs to the Honor of *Ralegh*, and to the Earl of *Warwick*, and is denominated *lawless*, because held at an unlawful or *lawless* hour: The Title of it in the Court-Rolls runs thus,

Kingshill in 2 fl. Curia de Domino Rege

Rochford. J. Distra sine lege,

Tenta est ibidem.

Per ejusdem consuetudinem,

Ante ortum solis.

Luceat nisi Polus,

Senescallus solus.

Nil scribit nisi colis,

Toties voluerit.

Gallus ut cantaverit,

Per cu us soli sonitus

Curia est summonita:

Clamat clam pro Rege

In Curia sine lege,

Et nisi cito venerint

Citius panituerint,

Et nisi clam accedant

Curia non attendat,

Qui venerit cum lumine

Errat in regimine,

Et dum sunt sine lumine

Capti sunt in crimine,

Curia sine cura

Jurati de injuria.

Tenta ibidem die Mercurii (ante diem) proximi post festum Sancti Michaelis Archangeli Anno Regni Regis, &c. This Court is mentioned in *Camden's Britannia*, fol. 431. though imperfectly, which see.

Lawless man, Is he *qui est extra legem*, *Bract. lib. 3. traft. 2. cap. 11. num. 1.* See *Outlaw*.

Lawe, According to *Doomsday*, by the interpretation of Mr. *Agar* of the Receipt in the Exchequer, signifies an Ascent, or easie Summit.

Lawnd or Lound, In *Doomsday* signifies a Plain between Woods.

Lawne. See *Landa*.

Layland, *Terra inculta*, Land that lies fallow.

Leap year. See *Bissextile*.

Lease, *Dimissio*, From the French *Laisser*, *permittere*, Is a demise or letting, or Lands or Tenements, right of Common, Rent, or any Hereditament unto another for term of Years or Life, for a Rent reserved: And a *Lease* is either written, called a *Lease by Indenture*, or a *Lease Parol*. The Party that letteth this *Lease* is called *The lessor*, and the Party to whom it is let is the *Lessee*: And a *Lease* hath in it six Points, 1. Words sufficient to import a Demise. 2. A Lessee named. 3. A commencement from a day certain. 4. A term of years. 5. A determination. 6. A reservation of Rent, *Co. lib. 6. fol. 55. Knight's Case. Co. on Lit. lib. 1. cap. 7. sect. 58. Co. 5. Rep. Case of Leases*.

Lecherwite alias Legerwite. See *Lairwite*.

Leccator, A debauched Person, a Tavern-hunter.

Leet, *Leta, visus Franci Plegii*, Is otherwise called a *Lawday*, *Smith de Rep. Ang. lib. 2. c. 18.* and seems to have grown from the Saxon *Lat*, which, as appears by the *Laws of King Edward*, set out by *Lambert*, num. 34. was a Court of Jurisdiction above the Wapentake or Hundred: Many Lords, together with their Courts Baron, have likewise Leets adjoyned, and thereby do enquire of such Transgressions as are subject to the enquiry and correction of this Court; whereof you may read in *Kitchin*, from the beginning of his Book to the Fifth Chapter, and *Britton*, cap. 28. But this Court in whose Mannor soever it be kept, is accounted the King's Court, because the Authority thereof originally belongs to the Crown, *Kitchin*, fol. 6. *Dyer*, fol. 64. saith, That this Leet was first derived from the Sheriffs Turn. And it inquireth of all Offences under High-Treason, committed against the Crown and Dignity of the King, though it cannot punish many, but must certifie them

them to the Justices of Assise, by the Statute of 1 E. 3. cap. ult. But what things be only inquirable, and what punishable, see *Kitchin* in the Charge of a Court *Leet*, from fol. 8. to fol. 20. See also the Statute 8 E. 2. and 4. Inst. fol. 261. *Hac est Curia prisca illa, (saith Spelman) quæ inter Saxones ad Fridurgos, Decanias, Tenementales pertinebat.* The Jurisdiction of Bayliffs within the Duchy of Normandy, in the compass of their Provinces, seems to be the same, or very like our *Leet*, cap. 4. of the *Grand Customary*.

Legacy, Legatum, Is a particular thing given by a last Will and Testament; for if a man transfer his whole Right or Estate upon another, that the Civilians call *Hæreditas*, and he to whom it is so transferred, they term *Hæres*; but we call him *Heir* only, to whom all a mans Lands and Hereditaments descend by right of Blood. See *Heir*. See more *Devise*.

Legatee, Is the person to whom any Legacy is given by a last Will and Testament.

Legalis homo, Is taken for a person that stands *Reclusus Curia*, and in this sense are those words so often used *Probi & legales homines*. Hence *legality* is taken for the condition of such a man,---*Iste tamen malefactor tradat fideiussor de pace & legalitate tuend.* Sureties for his good Behaviour, *Leg. Ed. Conf. cap. 18.* See *Yeoman*.

Legatary, Legatarius, He or she to whom any thing is bequeathed, a *Legatee*.

Legatary, The same with *Legatary*, Anno 27 Eliz. cap. 16.

Legergild, Legergildum, The same with *Lairwite*. But in the Laws of Hen. 1. it seems to have a different signification, *Si quis Dei fugitivum habet, injuste reddat eum ad restum & persolvat ei cuius erit & Regi emendet secundum Legergildum.*

Legespens. See *Lespegend*.

Legitimation, Legitimatio, A making lawful.

Legruita, Or rather *Lethervita*, but more usually *Lierwith*, is the punishment for lying with a Woman unlawfully, according to *Doomsday*.

Lent, Quadragesima, A set time of fasting and abstinence for forty dayes next before *Easter*, mentioned in the Statute 2 & 3 E. 6. 19. and first commanded to be observed in England by *Ercombert*, seventh King of Kent, before the year 800. See *Baker's Chron. fol. 7.*

Lep and Lare, Leppe & Lasse, Is a Custom in the Mannor of *Writtle* in *Essex*, that every Cart that comes over a part thereof called *Greenbury* (except it be the Cart of a Nobleman) payes 4 d. to the Lord of the Mannor. Mr. *Tobias Edmonds* Steward there.

Lepozarius, A Greyhound for the Hare, *Mon. Ang. 2. part, fol. 283.*

Lepræ amovendo, Is a Writ that lies for a Parish, to remove a Leper or Lazar that thrusteth himself into the Company of his Neighbors, either in Church, or other publick Meetings, to their annoyance or disturbance, *Reg. Orig. fol. 267.* and *F. N. B. fol. 234.*

Lespegend, Sint sub quolibet horum quatuor ex mediocribus hominibus (quos Angli Lespegend Dani vero young-men vocant) locati qui curam

onus tum viridis tum veneris suscipiant, Charta de Foresta Cantu Regis, Art 2.

Lenna, In *Doomsday*, but corruptly for *Leura*. *Spel. Gloss. verb. Leuca.* See *Leuca*.

Leslor and Lessee, The *Lessor* is he that leases Lands or Tenements to another for term of Life, Years, or at Will: And he to whom the Lease is made is the *Lessee*.

Leilage or Lailage, Laistagium, Proceeds from the Saxon word *Last*, *onus*, and is a Custom challenged in Fairs or Markets for carrying of things, *Rastal's Exposition of words, Saxton in the Description of England, cap. 11.* *Laillage Anno 21 R. 2. cap. 18.* seemeth to be the ballance of a Ship. *Fleta* termeth it *lesting*, saying, *Quod significat acquietantiam Leistagii, lib. 1. cap. 47. sect. Lesting.*

Letwes or Letves, Is a word used in *Doomsday* to signifie Pastures, and is still used in many places of England, and often inserted in Deeds and Conveyances.

Letb. See *Lath*.

Letherwite, 2. Inst. fol. 488. See *Lairwite*.

Letters of Exchange, Literæ Cambitorie, vel *literæ Cambii*, *Reg. Orig. fol. 194.*

Letters Patent, Literæ Patentis, Are Writings sealed with the Great Seal of England, whereby a man is authorised to do or enjoy any thing, that otherwise of himself he could not, 19 H. 7. 7. And they be so termed of their form, because they be open with the Seal affixed, ready to be shewed for confirmation of the Authority given by them. Common persons may grant Letters Patent; *F. N. B. fol. 35.* but they are rather call'd *Patentes* than *Letters Patent*. Letters Patents to make *Dentmens*, 32 H. 6. 16; yet, for difference sake, those granted by the King are called *Letters Patent Royal*, 2 H. 6. 10. Letters Patent conclude with *Teste missis, &c.* Charters with *Hinc testibus*, 2. par. Inst. 78. There is likewise a Writ Patent mentioned in *F. N. B. fol. 12. &c.*

Letter of Attorney, Literæ Attornati, Is a writing authorizing an Attorney, that is, a man appointed to do a lawful Act in our steads, *West. Symbol. part 1. lib. 2. sect. 339.* As a Letter of Attorney to give seisin of Lands, to receive Debts, to sue a third person, &c. See the Stat. 7 R. 2. 13.

Letters of Marque. See *Marq and Reprials*, 14 H. 6. 7.

Levant and Couchant, Is, when Cattel have been so long in another mans Ground, that they have layne down, and are risen again to feed; in Records in Latine, they say, *Levantes & Cubantes.*

Letters Patent of Summons of Debt, Anno 9 H. 3. cap. 18.

Levari facias, Is a Writ directed to the Sheriff, for the levying of a Sum of Money upon Lands and Tenements of him that hath forfeited a Recognisance, *Reg. Orig. fol. 298. & 300.* and also *F. N. B. 265.*

Levari facias damna & dispendiis, Is a Writ directed to the Sheriff, for the levying of Damages, wherco the *Dispend* hath formerly

formerly been condemned to the *Disseise*, *Reg. Orig. fol. 214.*

Levari facias restituum debiti, Is a Writ directed to the Sheriff, for levying the remnant of a Debt upon Lands and Tenements, or Chattels of the Debtor, that hath in part satisfied before, *Reg. Orig. fol. 299.*

Levari facias, quando Wiccomes retulerit quod non habuit emptores, Is a Writ commanding the Sheriff to sell the Goods of the Debtor which he hath already taken, and returned that he could not sell them, and as much more of the Debtors Goods as will satisfy the whole Debt, *Reg. Orig. fol. 300.*

Levy, *Levare*, Signifies to collect or exact, as to levy Money; sometimes to set up any thing, as to levy a Mill, *Kitchin, fol. 180.* Sometimes to cast up, as to levy a Ditch, *Old Nat. Brev. fol. 110.* And to levy a Fine, which is now a frequent and most usual term.

Leuca, Leuba, Leuga, Viaspatium. Spel. Gloss. verb. Leuca, They are often used in *Doomsday* for a Measure or Mile of Land. And *Leunides* hath the same signification there.

Lex Britanica, The Law of the Britains, or of the Marches of Wales, *Lex Marchiarum. See Breteuse.*

Lex Brethonia, The Breton Law, was a Law peculiar to Ireland, overthrown by King John in the Twelfth Year of his Reign, and the English Laws settled in stead thereof.

Lex Deraisina, But more truly *Deraisina*, is the proof of a thing, which one denies to be done by him, and his Adversary affirms it: This was used among the Normans, and in their *Grand Customary* thus defined, *cap. 126. Deraisina autem est Lex quedam in Normania constituta, per quam in simplicibus querelis, insectus, sustinet quod a parte adversa ei obicitur, se non fecisse declarare. Vide Plura ibidem de Deryn.*

Lex-gager, *Anno 1 Car. 1. cap. 3.* Wager of Law. See *Law.*

Lex, Lex. See *Law.* We also term Pasture by a frequent Name in several Countries, *Ley*, and so is it used in *Doomsday.*

Libell, *Libellus*, Literally signifieth a little Book, but by use it is the original Declaration of any Action in the Civil Law, *2 H. 5. 3. and 2 E. 6. 13.* It signifies also a criminous Report of any Man cast abroad, or otherwise unlawfully published, and then called *Famosus Libellus*: And this is either in scriptis, aut sine scriptis: In scriptis, is when an Epigram or other Writing, is composed or published to another's disgrace, which may be done *verbis aut Cantilenis*; as where this is maliciously repeated or sung in the presence of others, or else *Traditione*, when the *Libell*, or any Copy of it is delivered over to scandalize the Party. *Famosus Libellus sine scriptis* may be two-fold; 1. *Picturis*, as to paint the Party in a shameful and ignominious manner. Or, 2. *Signis*, As to fix a Gallows, or other ignominious sign at the Door of the Party, or else where, *Co. 5. Rep. de famosis Libellis.*

Libello habendo. See *Copia Libelli deliberranda.*

Libera Batella, A free Boat, --- *Per liberam Batellam, hoc est habere unam cinham ad piscand. subter pontem Cestriae & supra Etaniam, & ibidem cum omni genere retium, Plac. in Itin. apud Cestriam, 14 H. 7.*

Libera Chacea habenda, Is a Writ Judicial granted to a Man, for a free Chace belonging to his Mannor, after he hath by a Jury proved it to belong to him, *Reg. Orig. fol. 36. 37.*

Liberate, Is a Writ issuing out of the Chancery, to the Treasurer, Chamberlains, or Barons of the Exchequer, or Clerk of the Hammer, &c. for the payment of any annual Pension, or other Sums granted under the Great Seal. See *Broke*, tit. *Taylor d' Exchequer*, num. 4. *Reg. Orig. fol. 193.* Or sometime to the Sheriff, &c. *Nat. Brev. fol. 132.* For the delivery of any Lands or Goods taken upon forfeits of Recognisance. See *Co. lib. 4. fol. 64, 66, 67.* *Fullwood's Case.* It lies also to a Gaoler, for the delivery of a Prisoner, that hath put in Bayl for his Appearance, *Lamb. Eirenarch. lib. 3. cap. 2.*

Libertate probanda, Is a Writ that lay for such as were challenged for Slaves, and offer to prove themselves free, directed to the Sheriff, that he take security of them, for the proving of their Freedom before the Justices of Assize, and provide that in the mean time they be quiet from the Vexation of those that challenge them, *F. N. B. fol. 77.* Villenage, and the Appendixes thereof, viz. Infranchisement, Writs de *Nativo habendo*, *libertate probanda*, &c. Were of old great Titles in the Books, but now antiquated. See *Nativo habendo.*

Libertatibus allocandis, Is a Writ that lies for a Citizen, or Burgees of any City or Borough, that contrary to the Liberties of the City or Town whereof he is, is impleaded before the King's Justices, or Justices Errant, or Justice of the Forest, &c. to have his Privilege allowed, *Reg. Orig. fol. 262. F. N. B. fol. 229.*

Libertatibus exigendis in Trinere, Is a Writ, whereby the King willet the Justices in Eyre to admit of an Attorney, for the defence of another mans liberty before them, *Reg. Orig. fol. 19.*

Liberty, *Libertas*, Is a Privilege held by Grant of Prescription, whereby men enjoy some benefit or favour beyond the ordinary Subject. *Liberties Royal*, what they be, see in *Bract. lib. 2. cap. 5.* and *Broke* hoc titulo. See *Franchise.*

Librata terræ, Contains four Oxgangs, and every Oxgang fifteen Acres, *Skene de verbor. Signif. verbo Bovata terræ.* See *Farding-deal of Land.*

Licence to go to Election, *Licentia eligendi*, *Regist. fol. 294.* See *Conge d'Esire.*

Licence to arise, *Licentia surgendi*, Is a liberty given by the Court to a Tenant that is effoined *de malo lecti*, in a real Action: For the Law is, that in this Case he may not arise out of his Bed, or at least go out of his Chamber, until he have been viewed by Knights thereto appointed, and have a day assigned him to appear: And the reason of this is, that it may appear whether he caused himself to be effoined deceitfully or not; and therefore if the Demandant can prove that he was seen abroad before the View, or licence of the Court, he shall be adjudged to be deceitfully effoined, and to have made default: Of this, see *Bracton, lib. 5. tract. 2. cap. 7. 10. & 12.* and *Fleta, lib. 6. cap. 10.* and *Horne's Mirrour of Justices, lib. 2. cap. des Effoynes.*

Licentia

Licentia surgendi, Is the Writ whereby the Tenant escoined *de malo lecti*, obtaineth liberty to rise.

Licentia transirendi, Is a Writ or Warrant directed to the Keepers of the Port at Dover, &c. willing them to let some pass quietly beyond Sea, who have formerly obtained the King's Licence thereunto, *Reg. Orig. fol. 193.*

Licentia Concoquendi, 12 Car. 2. 12. See King's Silver.

Licet et Latet, Is a proverbial Speech, intending as much as to hang men first, and judge them after. The like is said of *Halifax* in *Torkshire*, I suppose, because their Proceedings are summary.

Lieutenant or Lieutenant, *Locumtenens*, Is compounded of *lieu*, *locus* & *tenir*, *tenere*, and signifies him that occupieth the Kings, or any other Persons place, or representeth his person, as the *Lieutenant of Ireland*, 4 H. 4. 6. So also is it used 2 & 3 E. 6. cap. 2. whence that Officer seems to take his beginning.

Lieutenant of the Ordnance, 19 Eliz. cap. 7. We use the word *Lieutenant* also for a military Officer, next in Command to the Captain, whose Place and Duty is so well known, that I need not here enlarge upon it.

Liferent, Is a Rent or Exhibition which a man receives either for term of Life, or for sustentation of Life, *Skeneus ad Rom. Attach. cap. 18. vers. 5.*

Liege, Ligeus, Is a word borrowed from the *Feudists*, and hath two several significations in the Common Law, sometimes being used for *Liege Lord*, as 34 & 35 H. 8. cap. 1. and 25 H. 8. 3. and sometimes for *liege-man*, as 10 R. 2. 1. and 11 R. 2. cap. 1. *Liege Lord* is he that acknowledgeth no Superior, *Duareus in Commentar. de consuetud. Windsorum*, cap. 4. num. 3. *Liege-man* is he that oweth Allegiance to his *Liege-Lord*. *Skene de verbo Signif. verb. Ligeantia*, saith, That it is derived from the Italian word *Liga*, a Bond or Obligation: In whom read more of this matter. See 8 H. 6. cap. 10. 14 H. 8. cap. 2.

Lierwit est multa adulteriorum, Flea, lib. 1. cap. 7. It is used for a Liberty, whereby a Lord challengeth the penalty of one that lyeth unlawfully with his Bond-woman. See *Legnita* and *Lobberwit*.

Ligeincy, Ligeantia, Is such a Duty or Fealty as no Man may owe to more than one Lord; and therefore it is most commonly used for that Duty and Allegiance which every good Subject oweth to his *Liege Lord* the King. And it is thus defined in the *Grand Customary of Normandy*, cap. 13. *Ligeantia est, ex qua Domino tenetur Vassalli sui contra omnes homines qui mori possunt & vivere, proprii corporis praeberet consilii & auxilii iuvamentum & ei se in omnibus innocuus exhibere, nec ei adversantiam partem in aliquo confovere, &c.* This is otherwise called *Legietas*, *Cassan. de consuetud. Burgund.* pag. 420, 421. This word is often used in our Statutes, as 14 H. 8. cap. 2. and several other.

Ligeance, Ligeantia, Is a true and faithful Obedience of the Subject to his Sovereign; Sometimes it signifies the Dominions or Territory

of the *Liege Lord*, as 25 E. 3. Stat. 2. Children born out of the *ligeance* of the King: Also the same with *ligeancy*. See *co. on Lit. fol. 129.* and 7. Rep. *Calvin's Case*.

Limitation of Assise, Limitatio Assise, Is a certain time set down by Statute, wherein a man must alledge himself, or his Ancestor, to have been seized of Lands; sued for by a Writ of Assise. See the Statute of *Merton*, cap. 8. Anno 20 H. 3. and *Westm. 1. cap. 38.* 32 H. 8. 2. 1 M. 1. Par. cap. 5. *Tbels Digest of Writs*, lib. 10. cap. 2. So it is used in *Old Nat. Brev. fol. 77.* in these words, The Writ *De consuetudinibus & servitiis* lyeth, where I, or mine Ancestors, after the limitation of Assise were not seized of the Customs, &c. But before the limitation of Assise, we were seized, &c.

Linarium, A place where Flax groweth.

Lindwood, Was a Doctor both of the Civil and Canon-Laws, and Dean of the Arches: He was Ambassador for Henry the Fifth into Portugal, Anno 1422. as appeareth by the Preface to his Commentary upon the *Provinciales*.

Littleton, VVas a famous Lawyer living in the dayes of King Edward the Fourth, as appeareth by *Stamf. Prer. cap. 21. fol. 72.* He wrote a Book of great Account called *Littleton's Tenures*.

Litterae ad faciendum attornatum pro festis faciendis, *Reg. Orig. fol. 172.* *Litterae de annua pensione*, *Ibid. fol. 266.* & 307. *Litterae patens ad faciendum generalem attornatum quia infirmus*, *Ibid. fol. 21.* *Litterae per quam Dominus remittit curiam suam Regi*, *Ibid. fol. 4.* *Litterae de requestu*, *Ibid. fol. 129.* *Litterae Canonici ad exercendam jurisdictionem loco suo*, *Ibid. fol. 305.* *Litterae Patentes ad conferendum Beneficia*, *Dominus in remotis agente*, *Ibid. Litterae procuratoriae*, *Ibid. fol. 205. 206.* *Litterae Regiae deprecatorie pro annua pensione*, *Ibid. fol. 307.* See these in their proper places.

Littera, As *Tres Carrethas* *Litterae*, Three Cart-loads of Straw or Litter, *Mon. Ang. 2. par. fol. 33. b.*

Livery, Liberatura, Is derived from the French *Livre*, that is, *insigne*, *gestamen*, or else from *livrer*, id est, *tradere*, and accordingly hath three significations. In one it is used for a Suit of Cloth or Stuff that a Gentleman giveth in Coats; Cloaks, Hats or Gowns, with Cognifance; or without, to his Servants or Followers; and is mentioned in 1 R. 2. 7. 20 R. 2. 1, 2. 7 H. 4. 14. 8 E. 4. 2. 13 E. 4. 3. 8 H. 6. 4. 3 H. 7. 1. 12. 11 H. 7. 3. 19 H. 7. 14. 3 Car. 1. cap. 4. In the other signification, it betokened a delivery of possession to those Tenants which held of the King, in *Capite*, or *Knights-service*; for the King, by his Prerogative, hath *primer seisin* of all Lands and Tenements so holden of him, *Stamf. Prerog. fol. 12. & cap. 3.* *Livery*, in the third signification, is the Writ which lies for the Heir, to obtain the Possession or Seisin of his Land, at the King's Hands, which see in *F. N. B. fol. 155.* But by the Statute, 12 Car. 2. cap. 24. All Wardships, *Liveries*, &c. are utterly taken away, and absolutely discharged.

Livery of Seisin, Deliberatio seisina, Is a delivery of Possession of Lands or Tenements.

Or other things corporeal, unto one that hath right, or a probability of right to them: For as *Bracton* saith, *Traditio debet esse vestita & non nuda, sc. quod traditione precedat vera causa, &c.* lib. 2. cap. 18. num. 3. *West.* Symb. part. 1. lib. 2. sect. 169. calls this a Ceremony in the Common-Law, used in the Conveyance of Lands or Tenements, &c. where an Estate in Fee-simple, Fee-tail, or a Free-hold shall pass: And is a Testimonial of the willing departing of him who makes the Livery, from the thing whereof Livery is made; and the receiving of the Livery, is a willing acceptance of the other Party. And it was invented, that the common people might have knowledge of the passing or alteration of Estates from man to man, that thereby they might be the better able to try in whom the right of Possession of Lands and Tenements were, if they should be impannelled in Juries, or otherwise have to do concerning the same. Of this Livery there be two kinds, viz. A Livery in Deed, and a Livery in Law; A Livery in Deed is, when the Feoffor taketh the Ring of the Door, or Turf or Twig of the Land, and delivereth the same to the Feoffee in the name of Seisin of the Land: A Livery in Law is, when the Feoffor saith to the Feoffee, being in view of the House or Land, I give to you yonder Land, to you and your Heirs, and therefore enter into the same, and take possession thereof accordingly; And the Feoffee doth accordingly in the life of the Feoffor enter, this is a good Feoffment, *Co. on Lit. lib. 1. cap. 7. sect. 39. and 5 Reports, Sharpe's Case.* For the form of words, and manner thereof, you may see them in *West.* Symb. part. 1. lib. 2. sect. 169. and *Fermes de la Ley.*

Lieutenant. See *Lieutenant.*

Lieutenant of the Tower, Seemeth to have been an Officer under the Constable.

Locus paritatus, Signifies a Division made between two Towns or Countries, to make out in which the Land or place in question lies, *Fleta, lib. 4. cap. 15. num. 1.*

Local, *Localis,* signifieth in a legal sense as much as tyed or annexed to a place: For example. The thing is local, and annexed to the Freehold, *Kitchin, fol. 180.* And again, in the same place, An Action of Trespass for Battery, &c. is transitory, not local, that is, not needful that the place of the Battery should be set down as material in the Declaration, or if it be set down, that the Defendant should traverse it, by saying he did not commit the Battery in the place mentioned in the Declaration, and so avoid the Action. And again, *fol. 230.* the place is not local, that is, not material to be set down in certain. The guard of the person, and of the Lord differ in this, because the person being transitory, the Lord may have his ravishment *de gard,* before he be seised of him, but not so of the Land, because it is local, *Perkin's Grants, 30.*

Lobbe, A great kind of North Sea-fish, *Anno 31 E. 3. Stat. 3. cap. 2.*

Lobemanage, Is the Hire of a Pilot, for conducting a Ship from one place to another.

Lobe ship, A kind of fishing Vessel, mentioned *31 E. 3. Stat. 3. cap. 2.*

Lobe works, Is one of the Works belonging to the Stanneries in Cornwall, for which see

Camden's Brit. tit. Cornwall. See Strenuous works.

Logating, An unlawful Game, mentioned *33 H. 8. cap. 9.* now disused.

Logwood, Otherwise called *Blackwood,* brought from divers remote parts, and prohibited by the Statute of *23 Eliz. cap. 9.* and *39 Eliz. cap. 11.* but since by *14 Car. 2. cap. 11.* The importation and use of it is allowed.

Loich, fish, As Lob, Ling, Cod, mentioned *31 E. 3. Stat. 3. cap. 2.*

Lollards, *1 & 2 P. & M. cap. 6.* The Doctrine and Opinion of the Lollards, *Rogerus Aston miles pro preditione & Lollardie distrabatur & suspendatur, & sic suspensus pendat ad voluntatem Regis.* Middlesex, Plac. Hill. 1 H. 5. Rot. 7. & Trin. 2 H. 5. Rot. 6.

Lollards, Lollards, So called (says *Tristramus*) from one *Walter Lollard* a German, the first Author of that Sect, about the year of our Lord 1315. were in account of those times Hereticks, that abounded here in England in the dayes of *Edward the Third* and *Henry the Fifth,* and mentioned *2 H. 5. 7.* whereof *Wickliff* was the chief, as *Stow* saith in his *Annals, pag. 425.* Against these *Thomas Arundel* Archbishop of Canterbury, in a Council at *Oxford,* made several Decrees. *Spotswood* in his *History of Scotland, fol. 61.* sets forth their Tenets; Their intent was, to subvert the Christian Faith, the Law of God, the Church and the Realm, so said the fore-mentioned Statute of *2 H. 5. 7.* which was repealed by *1 E. 6. 12.* The high Sheriff of every County is bound by his Oath to suppress them. See *Co. 3. Inst. fol. 41.* and *Camden's Case.*

Lord, Dominus, Is a word of honor with us, and is diversely used: Sometimes attributed to a Man noble by Birth or Creation, and are otherwise called *Lords of Parliament;* sometimes to those that be so called by the curtesie of England, as all the Sons of a Duke, or the eldest Son of an Earl. Sometimes to Men honourable by Office, as Lord chief Justice, &c. and sometime to a mean man that hath Fee, and so consequently the Homage of Tenants within his Mannor. In which last signification, it is most frequently used by the Writers of the Law, and divided into Lord Paramount and Lord Mesne; Lord Mesne is he that is Owner of a Mannor, and by vertue thereof hath Tenants holding of him in Fee, and by Copy of Court-Roll, and yet holdeth himself of a Superior Lord, called Lord Paramount, *Old Nat. Brev. fol. 79.* We read likewise of very Lord and very Tenant, *Ibid. fol. 42.* and *Bro. tit. Heriot, num. 1.* Where very Lord is he which is immediate Lord to his Tenant, and very Tenant he that holds immediately of that Lord; so that if there be Lord Paramount, Lord Mesne and Tenant; The Lord Paramount is not very Lord to the Tenant, nor the Tenant very Tenant to him.

Lord in gresse, *F. N. B. fol. 3.* Is he that is Lord, having no Mannor, as the King in respect of his Crown, *Ibid. fol. 5.* and *fol. 8.* where is a Case wherein a private man is Lord in gresse, viz. A man makes a Gift in tayl of all the Land he hath, to hold of him, and dyeth; his Heir hath but a Seigniorie in gress.

Lorimers or Loriners, May well be deduced from the Latine *Lorum:* They are one

of the Companies of London that make Bits for Bridles, Spurs, and such like small Iron Ware, 1 R. 2. cap. 12.

Lot or Loth, Is the thirteenth Dish of Lead in the *Derbshire Mines*, which belong to the King *pro Dominio suo*. See *Rot. Rageman & de Quo Warranto de Itin. de Derbi.* 9 E. 1. See *Cope*.

Lothertwite alias **Leyertwit**, Is a Liberty or Privilege to take amends of him that defileth your Bond-woman without licence, *Rastall's Exposition of words*; so that it is an amends for lying with a Bond-woman. Saxtons in his *Description of England*, cap. 11. See *Lairwit*. Some think it should rather be written *Legerwit*, for *Leger* is the Saxon word for a Bed; or *Lecherwite* a punishment for *Lechery*. See *Bloodwit* and *Lyerwit*.

Lourgary, In *Statuto pro stratis London*, Printed Anno 1573. Art. 45. Caking any corrupt thing, or appoysoning the Water, is *Lourgary* and Felony. Some think it a corruption of Burglary. See *Gloss. in X. Scriptores, verbo Burglaria*.

Lombellers, 23 Eliz. cap. 10. Are such as go with light and a Bell, by the sight whereof Birds sitting on the Ground, become somewhat stupified, and so are taken with a Net. This name is derived from the word *Low*, which in the Saxon, or old English, signifies a Flame of Fire. See the *Antiquities of Warwickshire*, pag. 4.

Lufernes. See *Furze*.

Lushbom or **Lushburgh**, Was a base sort of Coyn used in the dayes of King *Edward the third*; coyned beyond Sea to the likeness of *English Money*, and brought in to deceive the King and his Subjects. To prevent and avoid which, it was made Treason for any man wittingly to bring any such into the Realm, as knowing it to be false, by the Statute made Anno 25 Edw. 3. Statut. 4. cap. i. cecrudo, and Co. Inf. 3. par. fol. 1.

Lupulicetum, A place where Hops grow, Co. 1. inf. 4. b.

M.

M. Is a numeral letter, and stands for a Thousand; Also every person convicted for Murder (Manlaughter) and admitted to the benefit of his Clergy, must be marked on the brawn of the left Thumb with an M. by 4 H. 7. cap. 13.

Mace griete alias **Mace-grefts**, *Machecarsi*, Are such as willingly buy and sell stolen Flesh, knowing the same to be stolen, *Britton*, cap. 29. and *Crompton's Justice of Peace*, fol. 193. Vide *Luges Ina*, cap. 20. de carne furtivam tenente.

Madning money, Old Roman Coyne, sometimes found about *Dunstable*, are so called by the Country-people; they seem to retain this Name from *Magintum*, used by the Emperor *Antoninus* in his Itinerary for *Dunstable. Camd.*

Maeremum, Is derived from the old Norman word *Marisme* or *Timber*.

Maybote or **Maybote**, A recompence for the slaying or murder of ones Kinsman; for anciently in this Nation, corporal punishments for

Murder, and other great Offences, were sometimes transmuted into pecuniary Fines, if the Friends of the Party slain were to content, *Leg. Canuti Regis*, part 1. cap. 2.

Magna Assisa eligenda, Is a Writ directed to the Sheriff, to summon four lawful Knights before the Justices of Assise, there upon their Oaths to chuse twelve Knights of the Vicinage, &c. to pass upon the great Assise between A. Plaintiff, and B. Defendant, &c. *Reg. Orig. fol. 8.*

Magna Charta, The Great Charter was granted the Ninth Year of Henry the Third, and confirmed by Edward the First. The reason why it was termed *Magna Charta*, was either for that it contained the sum of all the Liberties of England, or else because there was another Charter call'd *Charta de Foresta* establish'd with it, which was the less of the two; or because it contained more than many other Charters; or more than that of King Henry the First, or of the great and remarkable solemnity in the denouncing Excommunication, and direful *Anathema*, against the Infringers of it. We read in *Holinshed*, that King John, to appease his Barons, yielded to Laws or Articles of Government, much like to this Great Charter: But we have now no ancienter written Law than this, which was thought to be so beneficial to the Subject, and a Law of so great equity, in comparison of those which were formerly in use, that King Henry, for the granting it, had the fiftieth penny of all the moveable Goods, both of the Spirituality and Temporality throughout the Realm. *Spelman* in his *Gloss.* on this word, calls it *Augustissimum Anglicanum libertatum diploma & sacra Ancora*. It is *Magnam in Parvo*, and hath been above thirty times confirmed sayes *Coke* upon *Easton*, fol. 81.

Maphim or **Mayhem**, *Mabemium*, Cometh of the French word *Mebaigne*, and signifies a corporal hurt, by which a man loseth the use of any Member, that is or might be any defence unto him in Battel: As if a Bone be taken out of the Head, or broken in any other part of the Body, or Foot, or Hand, or Finger, or Joynt of a Foot, or any Member be cut, or by Wound the Sinews be made to shrink; or if any Eye be put out, fore-teeth broke, or any other thing hurt in a mans body, whereby he is disabled to defend himself, or offend his Enemy, *Glanville*, lib. 14. cap. 7. See *Bracton* at large, lib. 3. tract. 2. cap. 24. num. 3. *Britton*, cap. 25. and *Stamf. Pl. Cor.* lib. 1. cap. 41. and *The Mirrour of Justices*, cap. de *Homicide*. But the cutting off an Ear or Nose, the breaking of the hinder Teeth, or such like, was no *Mayhem*, it being rather a deformity of Body, than diminishing of Strength. But now by the Stat. of 22. & 23. Car. 2. cap. 1. the cutting off a Nose, or cutting off or disabling any Limb or Member, is made Felony without benefit of the Clergy: *Mayhem* is commonly tryed by the Justices inspecting the Party: And if they doubt whether it be a *Mayhem*, or not, they use to take the Opinion of some able Chirurgeon in the point. The *Grand Customary of Normandy*, cap. 6. calls it *Mabaignium*, and the *Canonists Membrum mutilationem*; but all agree, that it is the loss of a Member, or the use thereof, and *Membrum*, *Cassan. de Conf. Burg.* pag. 168. defines thus, *Est pars corporis habens destinatum operationem in corpore*. See

Skene de verborum significatione, verbo Machanium. See Co. on Lit. lib. 2. cap. 11. fcl. 194.

Magistrate, Magistratus. He is *Custos urinisq; tabulae*, the Keeper or Preserver of both Tables of the Law; therefore if any Magistrate, or Minister of Justice, in execution of their Office, or keeping of the Peace, according to the duty of their Office, be slain; this is murder, for their Contempt and Disobedience to the King and the Law, for it is *contra pacem Regis & Legis*, Co. 9. Rep. Mackally's Case.

Maiden Kents, Is a noble paid by every Tenant in the Mannor of *Buithin Radnorshire*, at the Marriage of a Daughter, and was anciently given to the Lord for his quitting the Custom of *Marcheta*, which I suppose was a Fine paid to the Lord, for a licence to marry a Daughter: Sir Edw. Sayer is now Lord of this Mannor. See *Marcheta*.

Maignagium, Derives it self from the French *Maigner*, i. *Paber erarius*, and signifies a Braier's Shop. See *Co. l. 4. Inst. fol. 338.* confounds *Maignagium* with *Messuagium*.

Malle, Anciently a kind of Money, but more largely signifies not only Money, but any proportion of Grain, or other Rent; This later in the North is called *Blackmaile*, *Inquis. capt. post mortem Will. de Conwey, Anne 20 E. 3. num. 63. Lanc. Spelman* says, There is in *Ulverstone* quoddam proficuum vocat. *Geeseuales* & quoddam proficuum apud *Plampton* vocat. *Connals*. See *Blackmaile*.

Mainour, alias Manbur, alias Metnour, From the French *Manier*, i. *manu trahere*: In a legal sense, denotes the thing that a Thief taketh away, or stealeth. As to be taken with the *Mainour*, *pl. cor. fol. 179.* is to be taken with the thing stolen about him: And again, *fol. 194.* it was presented, That a Thief was delivered to the Sheriff or Viscount, together with the *Mainour*: And again, *fol. 186.* If a man be indicted, That he feloniously stole the Goods of another, where, in truth, they be his own Goods, and the Goods be brought into the Court as the *Mainour*; and it be demanded of him, what he saith to the Goods, and he disclaim them; though he be quitted of the Felony, he shall lose the Goods: And again, *fol. 149.* If the Defendant were taken with the *Manour*, and the *Manour* be carried to the Court, they, in ancient times; would arraign him upon the *Manour*, without any Appeal or Indictment. I find this word used in the *Old Nat. Brev. fol. 110.* In this sort, where a man maketh a thing by *Manour*, or levying, or stopping; in such case he shall have an Assise, where it signifies handy-labor, and is but an abbreviation of *Mainovery*.

Mainure. See *Minovery*.

Mainpernable, That may be let to *bail*. See the Statute of *Westm. 1. cap. 15. made Anno 3 E. 1.* what persons be *mainpernable*, and what not.

Mainpernors, Manuaptores, Are those Persons to whom a person is delivered out of Custody or Prison, and they become security for him, either for appearance or satisfaction; they are called *Manuaptores*, because they do it as it were *manu capere* & *ducere captivum* & *custodia vel prisoem*. And the Prisoner is said to be delivered

to *bail*, from the words of the *Bail-piece*; viz. *A. B. &c. traditur in Ballium J. D. & R. R. &c.* See *Mainprise*.

Mainprise, Manuaprio, Is compounded of two French words, viz. *Main*, *manus*, & *Prins*, *captus*: It signifies in our Law, the taking or receiving a man into friendly custody, that otherwise is or might be committed to Prison, upon security given for his forth-coming at a day assigned: And they that thus undertake for any, are called *Mainpernors*, because they do receive him into their hands, *Stamf. Pl. Co. fol. 178.* from hence comes the word *Mainpernable*, which denotes him that may thus be bailed; For in many Cases a man is not *mainpernable*, whereof see *Bro. tit. Mainprise per totum*, and *F. N. B. fol. 249. Mamood* in his *Forest Laws*, pag. 167. makes a great difference between *Bail* and *Mainprise*; for he that is *mainprised* (saith he) is alwayes said to be at large, and to go at his own liberty out of Ward until the day of his appearance, but otherwise it is, where a man is let to *bail* to four or two men by the Lord chief Justice in Eyre of the Forest, until a certain day; for there he is always accounted by the Law to be in their Ward and Custody for the time: And they may, if they will, keep him in Ward or in Prison all that time, or otherwise at their will; so that he that is so bailed, shall not be said by the Law to be at large, or at his own liberty: Thus far *Mamood*. The *Mirror of Justices* distinguishing between *Pledges* and *Mainpernors*, saith, That *Pledges* are more general, and that *Mainpernors* are Body for Body, *lib. 2. cap. de Trespass venial*, and *lib. 3. cap. des Pledges & Mainpernors*. When *Mainprises* may be granted, and when not; see *Crompt. Just. of Peace*, fol. 136. and 141. and *Lamb. Eirenlib. 3. cap. 2. pag. 336, 337, 338, 339, 340.* See also *Britten, fol. 37. cap. des Pledges & Mainpernors*. Lastly, The *Mirror of Justices* saith, That *Pledges* be those that bail or redeem any thing but the Body of a Man, but *Mainpernors* are those that free the Body of a Man; and therefore that *Pledges* belong properly to real and mixt Actions, and *Mainpernors* to personal.

Mainport, Is a small Duty, which, in some places, the Parishioners pay to the Rector of their Church, in recompence of certain Tythes. See *Waxshot*. *Spelman* in his *Glossary* saith, That *Vicaria de Wragly* (in *Com. Lincoln*) consistit in toto *Altario* & in *Ceragio*, vulgariter dict. *Waxshot*, in *pambus*, vulgariter dict. *Mainport*, & in *incremento denariorum sancti Petri*, vulgariter dict. *Firebarth*.

Maleswoine, In the North signifies as much as *Forsworne*, *Brownlee's Rep. 4. Hobart's Rep. 8.*

Maintainor, 19 H. 7. 14. Is he that supports or seconds a Cause depending in Suit between others, either by disbursing Money, or making Friends for either Party towards his help.

Maintenance, Manutentio & manutentia, Signifies the upholding of a Cause or Person, metaphorically drawn from succoring a young Child, that learns to go by ones hand: In Law it is taken in the worst sense, as appears by 32 H. 8. 9. And when a man act in this kind is by Law accounted *Maintenance*, and when not. See *Brooke, tit. Maintenance*, and *Kitchin, fol. 202.* and *F. N. B.*

172. and *Crompt. Jurisd. fol. 38.* The Writ that lies against a man for this Offence, is called Maintenance. See *Co. on Lit. fol. 368.* Special maintenance, *Kitchin. fol. 204.* Seemeth to be maintenance, most properly so termed. Of this see *Crompt. Just. of Peace, fol. 155.* and the *New Book of Entries, verbo Maintenance.*

Maison dieu, Is the French Name for an Hospital or Almes-house. See *Maison dieu.*

Make, Facere, Signifies to perform or execute; as to *make his Law*, is to perform that Law which he hath formerly bound himself to: that is, to clear himself of an Action commenced against him by his Oath, and the Oaths of his Neighbours, *Old Nat. Brev. fol. 161. Kitchin, fol. 192.* Which Law seemeth to be borrowed of the Feudists, who call those men that come to swear for another in this case *Sacramentales.* Of whom *Hoteman* saith thus in *verbis Feudal. Sacramentales a Sacramento, id est, iuramento dicebantur ij, qui quavis rei de qua ambigebatur, testes non fuissent, tamen ex ejus, cujus res agebatur, animi sententia, in eadem qua illi verba jurabant; illius videlicet probitate & innocentia confisi, &c.* The formal words used by him that makes his Law, are commonly these, *Hear O ye Justices, that I do not own this sum of Money demanded, neither in all nor any part thereof in manner and form declared. So help me God, and the Contents of this Book.* To make Services or Custome, is nothing else but to perform them, *Old Nat. Brev. fol. 14.* To make Oath, is to take Oath.

Malediction, Maledictio, A Curse which was of old usually annexed to Donations of Land made to Churches and Religious Houses. See the Charter of King *Atelstane* to the Monastery of *Wiltune*, Anno 933. and the Charter of King *Eadred*, in *Mon. Ang. 2. par. fol. 867.*

Male feaſance, A doing of evil, *Cro. Rep. 2. par. fol. 266.* It is derived from the French *Mal-faire*, to offend or transgress.

Maletent or Maletotie, Malum vel indubitum Totonum, In the Statute called *The Confirmation of the Liberties, &c. 25 E. 1. cap. 7.* Is interpreted to be a Toll of forty shillings for every Sack of Wool. *Stow* in his *Annals* calls it a *Maletot*, pag. 461. See also the Statute of *Tallagio non concedendo*, Anno 35 E. 1. Nothing from hence-forth shall be taken of Sacks of Wool, by colour or occasion of *maletent*. In France they had an extraordinary Tax called *Maletotie*.

Malin. See *Marle.*

Malveis proctors, In *Artic. super Chart. cap. 10.* Is understood of such as use to pack Juries by nomination, or other Practice, *2. Inst. fol. 561.*

Manbote, Signifies a Recompence for Homicide, or a pecuniary compensation for killing a man. *Spelman* in his *First Volume, concil. fol. 622.* sayes, *Manbote, i. compensatio Domino persolvenda pro homine suo occiso, Anglorum lege Regi & Archiepiscopo tres marcas de hominibus eorum propriis sed Episcopo ejusdem comitis & Consuli & Dapifero Regis, Viginti solidos, Baronibus autem aliis decem solidos, &c.* See *Lambert* in his *Explication of Saxon words, verbo Estimatio*, and *Hoveden* in parte poster. *annal. suor. fol. 344. & Bote.*

Manca, Was a square piece of Gold,

commonly valued at thirty pence; and *Manca* was as much as a mark of Silver. See the Notes upon *Canutus Laws*, where it was called *Mancafa*, *quasi manu cusa*, coined with the Hand.

Manciple, Manceps, A Caterer, An Officer anciently in the Temple, now called *The Steward.* Of whom our ancient Poet *Jeffrey Chaucer*, sometimes a Student there, thus writes,

*A Manciple there was in the Temple,
Of which all Catours might take ensempel.*

This Officer still remains in Colleges in the Universities.

Mandamus, Is a Writ that lyeth after the Year and Day, whereas in the mean time the Writ called *Diem clausi extremum* hath not been sent out to the Escheator for the same purpose for which it should have been sent forth, *F. N. B. fol. 253.* See *Diem clausi extremum.*

Mandamus, Is also a Charge to the Sheriff, to take into the Kings hands all the Lands and Tenements of the Kings Widow, that against her Oath formerly given, marryeth without the Kings consent, *Reg. fol. 295.* See *Widow.*

Mandatum, Mandatarius, He to whom a Charge or Commandment is given. Also he that obtains a Benefice by *Mandamus.*

Mandate, Mandatum, Is a Commandment of the King, or his Justices, to have any thing done for dispatch of Justice, whereof you shall see diversity in the Table of the *Register Judicial, verbo Mandatum.* The Bishops *Mandates* to the Sheriff, *31 Eliz. 9.*

Manentes, Vvas of old used for *Tenentes* or *Tenants*, *Council. Synodal. apud Cloveshoo, Anno 822.*

Manning, Manopera, A dayes work of a Man; in some ancient Deeds there is a reserve of so much Rent, and so many *mannings.*

Manor, Manerium, Seems to be derived of the French *Manoir, habitatio*, or rather from *manendo*, of abiding there, because the Lord did usually reside there. *Skene de verb. Signif. saith,* It is call'd *Manerium quasi manrium*, because it is laboured by handy-work: It is a noble sort of Fee granted partly to Tenants for certain Services to be performed, and partly reserved to the use of his Family, with Jurisdiction over his Tenants for their Farms. That which was granted out to Tenants, we call *Tenementales*; those reserved to the Lord, were *Dominicales*: The whole Fee was termed a Lordship, of old a Barony; from whence the Court, that is always an Appendant to the Mannor, is called *The Court Baron.* Touching the original of the Manors, it seems that in the beginning there was a circuit of Ground granted by the King to some Baron, or Man of worth, for him and his Heirs to dwell upon, and to exercise some Jurisdiction more or less within that compass, as he thought good to Grant, performing such Services, and paying such yearly Rent for the same; as he by his Grant required; and that afterward this great man parcelled his Land to other meaner men, injoyning them such Services and Rents as he thought good, and so as he became Tenant to the King, the inferiours became Tenants to him.

See *Perkins Reſervations*, 670. and *Hornes Mirror of Juſtices*, lib. 1. cap. de *roy Alfred*, and *Fulbeck*, fol. 18. And according to this our Cuſtome, all Lands holden in Fee throughout France are divided into *Fiefs* and *arrieri fiefs*, whereof the former are ſuch as are immediately granted by the King; the ſecond, ſuch as the Kings *Feudataries* do again grant to others, *Gregorii Syntagm.* lib. 6. cap. 5. num. 3. In theſe days a Manor rather ſignifieth the Jurisdiction and Royalty incorporeal, than the Land or Scite. For a man may have a Manor in groſs, (as the Law termeth it) that is, the right and intereſt of a Court Baron, with the perquiſites thereto belonging, and another or others have every Foot of the Land, *Kitchin*, fol. 4. Broke, *hoc titulo per totum*, *Bracton*, lib. 4. cap. 31. num. 3. divideth manerium into capitale & non capitale. See *Fee*. A Manor may be compounded of divers things, as of a Horſe, arable Land, Paſture, Meadow, Wood, Rent, Advowſon, Court Baron, and ſuch like; and this ought to be by long continuance of time, beyond the memory of man. For at this day a Manor cannot be made, becauſe a Court Baron cannot now be made, and a Manor cannot be without a Court Baron, and Suiters or Free-holders, two at the leaſt; For if all the Free-holds, except one, eſchet to the Lord, or if he purchaſe all, except one, there his Manor is gone *cauſa qua ſupra*, although in common ſpeech it may be ſo called.

Manpygarnon, VVillielmus VValcote tenet manerium de Adington in Com. Sur. per ſervitium inveniendi, ad Coronationem Regis quoddam Potaginum vocat. Manpygarnon.

Manſion, *Manſio*, a *manendo*, According to the definition of *Bracton*, lib. 5. cap. 28. num. 1. Is a dwelling conſiſting of one or more Houſes: It is moſt commonly taken for the Lords chief dwelling-houſe within his Fee, otherwiſe called *The Capital meſuage*, or chief Mannor-place, *Bracton*, lib. 2. cap. 26. *Manſion*, amongſt the ancient Romans, was a place appointed for the lodging of the Prince, or Souldiers in their Journey; and in this ſenſe we read *Primam manſionem*, &c. It is probable, That this word *Manſion* doth in ſome conſtruction ſignifie ſo much Land as Bede calleth *Familiam* in his *Eccleſiaſtical Hiſtory*. For *Lambert* in his *Explication of Saxon words*, verb. *Hida terra*, ſaith, That that which he calleth *Familiam*, others ſince call *Manentem vel manſam*, *manſus* & *manſum*, you may read in the *Feudiſts*, and in *Skene de verbor. Significat. verbo Manſus*. The Latine word *manſio* hath the ſame ſignification in the Charter granted by King *Kenulphus* to *Riclin* the Abbot of *Abington*, mentioned by Sir *Edward Coke* in his Book *de jure Regis Eccleſiaſtico*; And in a Charter of *Edward the Confeſſor*, it is written *Manſa*. See *Hiſtory of Pauls*, fol. 189.

Manſura & Maſura, Are uſed in *Doomſday*, and other ancient Records, for *manſiones vel habitacula villicorum*.

Manſlaughter, *Homicidium*, Is the unlawful killing of a man, without prepenſed malice. As when Two, that formerly meant no harm one to another, meet together, and upon ſome ſudden occaſion falling out, the one killeth the other, *Weſt*, part 2. *Symbol. tit. Indiscretus*, ſect. 44. It differeth from *Murder*, becauſe it is not done with

fore-going malice: And from *Chance-Medley*, becauſe it hath a preſent intent to kill. And this is Felony, but admitted to the benefit of Clergy for the firſt time, *Staſſf. pl. cor. lib. 1. cap. 9.* and *Britton*, cap. 9. Yet is confounded with Murder in the Statute, Anno 28 E. 3. cap. 11.

Manſus, Anciently a Farm, *Seldens Hiſtory of Tythes*, pag. 62. *Manſum* or *manſus*, Is ſometimes confounded with *meſſuagium*: *Spelman*.

Manſtile, *Mantile*, May be drawn from the French word *Manteau*, and ſignifies with us a long Robe, Anno 24. H. 8. cap. 13.

Manubrium, The handle or haſt of a Sword or Dagger, *Jur. preſentant*, quod A. de C. *Aurifaber* 2. Junii, 2 Jac. apud S. *prediſt. quoddam Manubrium Pugionis ferreum*, Anglice a Dagger hilt of Iron, &c. apud *Maidſton*.

Manucapſio, Is a VVrit that lies for a man, who, taken upon ſuſpicion of Felony, and offering ſufficient Bail for his Appearance, cannot be admitted thereto by the Sheriff, or other having Power to let to Mainpriſe, F. N. B. fol. 249. See *Mainpriſe*. How diverſly it is uſed, ſee the *Reg. Origin.* in the Table, and *Frynns Animadverſions*, fol. 268.

Manuel, *Manuelis*, Any thing whereof preſent profit may be made, or that is employed or uſed by the hand, *Staſſf. Prærog.* fol. 54. As a thing in the *manuel* Occupation of one, i. actually uſed or employed by him.

Manumiſſion, *Manumiſſio*, Is the freeing of a Villain or Slave out of his Bondage: The form of it, in the Conquerors time, *Lambert* in his *Agxasovoſida*, fol. 126. ſetteth down in theſe words, *Si quis velit ſervum ſuum liberum facere, tradat eum Vicecomiti, per manum dextram in pleno Comitatu & quietum illum clamare debet a jure ſervitutis ſue per manumiſſionem; & oſtendat ei liberam portas & vias & tradat ei libera arma ſcilicet, Lanceam & gladium & deinde liber homo efficitur*. Some alſo were wont to be manumitted by Charter. Vide *Broke*, tit. *Villenage*, fol. 305. The *Termes of the Law* make two kinds of manumiſſion, one expreſſed, the other implied: *Manumiſſion* expreſſed is, when the Lord makes a Deed to his Villain, to infranchiſe him by this word *Manumittere*; The manner of which in old time was thus, The Lord, in the preſence of other perſons, took the Bond-man by the Head, ſaying, *I will that this man be free*, and thereupon ſhoved him forward out of his hand. *Manumiſſion* implied is, when the Lord makes an Obligation for payment of money to him at a certain day, or ſueth him, when he might enter without Suit; or granteth him an Annuity, or leaſeth Land to him by Deed, for Years, or for Life, and ſuch like. See *Neiſ*.

Manuſtaſtus, We often find it in the Law *Dialect*, to ſignifie a Domestiſtick Servant; *Spelm.* *Erit culpabilis tanquam de Manuſtaſto Mamwood*, cap. 16. num. 6. That is, he ſhall be culpable as of a thing done by one of his Family, *Gloſſ. in 10. Scriptor*.

Manutenentia, Is a Writ uſed in caſe of Maintenance, *Reg. Orig.* fol. 182. & 189. See *Maintenance*.

Manworth, The price or value of a mans Life or Head; for of old every man was rated at a certain price, according to his Quality, which price

price was paid to the Lord in satisfaction for killing him.

Marches, Marchia, Be the Bounds and Limits between Us and Wales, or between Us and Scotland, 24 H. 8. cap. 9. *Camd. pag. 453. & 606.* And the Marches of Scotland are divided into West and Middle marches, 4 H. 5. 7. 22 E. 4. cap. 8. The word is used in the Statute of 24 H. 8. 12. generally for the Borders of the Kings Dominions; And may be derived from the German *March, i. limes,* or from the French *Marque,* that is, *Signum*, being the notorious distinction between two Countries or Territories.

Marchers, Were the Noblemen that lived on the Marches of Wales or Scotland, who, in times past, as *Camden* saith, *pag. 453.* had their private Laws, as if they had been petty Kings, which are now abolisht by 27 H. 8. cap. 26. Of these *Marchers* you may read 2 H. 4. 18. 26 H. 8. 6. 1 E. 6. 10. where they are called *Lords-marchers.* See also 1 & 2 P. & M. cap. 15.

Marchet, Marchetum, Consuetudo pecuniarum, in mancipiorum filibus maritandis, *Bract. lib. 2. tit. 1. cap. 8. num. 2.* This Custome is in divers parts of England and Wales, as also in Scotland and the Isle of Guernsey. See *Spelman* at large of it. *Coke on Lit. fol. 140.* says, It is called *Marchet*, as it were a *Cbete* or Fine for Marriage. In the *Manner of Denever in Com. Carmarthen*, every Tenant at the marriage of his Daughter, pays by Custome ten shillings to the Lord, which, in the *Brittish Language*, is call'd *Gwabr merched*, that is, a Maids Fee. See *Maiden Rents*, and *Gwabr merched*.

Marshall, Marefcallus, Is a French word signifying as much as *Tribunus militum* with the ancient Romans, or *πολιμαρχ* with the Greek, or *παραρχ*. *Tringuel. de nobilitate, cap. 8. pag. 42. num. 17.* The French word may seem also to proceed from the German *Marschalks*, i. *Equitum magister*, which *Hotoman* in *verbis feudibus verbo* *Marchalkus*, derived from the old word *March*, signifying a Horse. Others make it of the two Saxon words, *Mar. i. equus*, and *Scalc. i. prefellus*; or according to *Yerfegan*, from *Mar*, the general appellation of all Horses, (as Horse is now in English) and *Scalc*, which in the ancient Teutonick, he affirms, to signifie a kind of Servant, as *Scalc* doth at this day among the *Italians*. With us there be divers Officers of this Name, but one most noble of all the rest, who is called Lord or Earl Marshal of England, of whom mention is made in divers Statutes, 1 H. 4. 7. & 14. and 13. Rich. 2. cap. 2. His Office consists especially in matters of War and Arms, as well with us as in other Countries, whereof you may read *Lupanus de Magistratibus Francie, lib. 1. cap. Marshallus*, and *Filius*, lib. 2. cap. de *Constabili Mariscallo*, &c. The next to this is the Marshal of the Kings House, whose special Authority is (according to *Brown and Gwin* in the Preface to his Readings,) in the Kings Place to hear and determine all Pleas of the Crown, and to punish faults committed within the Verge, and to hear and judge of Suits between those of the Kings Household, &c. *Crompt. Jur. fol. 192.* of him you may read *F. N. B. fol. 241. & 18 E. 3. stat. 2. cap. 7. and 27 E. 3. stat. 2. cap. 6. and 2 H. 4. 13. and divers others.* Whoever desires to know farther of this Officer, and

his Duty, may find it in *Fleta, lib. 2. cap. 4. & 5.* There be other inferior Officers of this Name, as *Marshal* of the Justices in Eyre, 3 E. 1. 19. *Marshal* of the Kings Bench, 5 E. 3. cap. 8. and this hath the Custody of the Kings Bench Prison in *Southwark*, *F. N. B. fol. 251.* And these inferior Marshals be either *ad placitum*, or in Fee, *Kitchin, fol. 143.* *Fleta* also, lib. 2. cap. 15. mentions a *Marshal* of the Kings Hall, whose Office is, when the Tables be prepared, to call out both those of the Household and Strangers, according to their worth, and decently to place them, &c. There is also a *Marshal* of the Exchequer, 51. H. 3. stat. 15. to whom the Court committeth the Custody of the Kings Debtors during the Term time, for securing the Debts. He also assigneth Sheriffs, Escheators, Customers, and Collectors, their Auditors before whom they shall account. He hath all Inquisitions taken before Escheators *virtute Officii*, delivered unto him to be redeliver'd by him to the Treasurers Remembrancer in the Exchequer.

Marshall, Marefcallia, Is the Court or Seat of the Marshal, of whom see *Crompt. Jur. fol. 102.* It is allowed for the Prison in *Southwark*; the reason whereof may be, because the Marshal of the King House was wont perhaps to sit there in Judgment, or keep his Prison. See the Stat. 9 R. 2. cap. 5. and 2 H. 4. cap. 23. King Charles the First erected a Court by Letters Patents under the Great Seal, by the Name of *Curia Hospitii Domini Regis*, &c. which takes Cognisance more at large of all Causes than the *Marshalsee* could; of which the Knight Marshal or his Deputy are Judges.

Marriage, Maritagium, Signifies not only the lawful conjunction of Man and Wife, but also the Interest of beflowing a Ward or a Widow in Marriage, *Magna Cart. cap. 6. and Bracton, lib. 2. cap. 3.* And also it signifies Lands given in Marriage, *Bracton, lib. 2. cap. 34. 39.* And in this signification the same Author saith; That *Maritagium* est, aut liberum, aut servitium obligatum, lib. 2. cap. 7. num. 35. 40. *Liberum maritagium dicitur, ubi Donator vult quod terra sic data liberum sit: liberum ab omni seculari servitio, quod ad Dominum seadi posse pertinere, & ita quod ille, cui sic data fuerit, nullum omnino inde faciat servitium usq; ad tertium gradum, & usq; ad quartum gradum, &c.* See *Stene de verb. Signif. verb. Maritagium*, (which according to *Glauville, lib. 7. cap. 1.*) is that portion which the Husband receives with his Wife. See *Dower*.

Maritagio annullo per defectum, Is a Writ for the Tenant in *Frank Marriage*, to recover Lands, &c. whereof he is divorced by another, *Reg. fol. 171.*

Maritagio solutato, Is a Writ. See *Forisfactura maritagi*.

Marke, Marca, From the Saxon *Maerc*, signum, was a piece of Silver money worth thirty pence, *Lamb. Explication of Saxon words, verbo Mancusa*. In old time a mark of Gold was the quantity of eight ounces, *Stowes Annals, pag. 32. and pag. 691.* Twelve marks of Gold Troy-weight was two hundred pounds of English Money, after which rate every mark weighed sixteen pounds, thirteen shillings, four pence. *Stene de verb. Signif. verb. Mark*, saith; That in *Tractatu*

de ponderibus & mensuris; a mark signifieth an ounce weight, or half a pound, whereof the dram is the eighth part, as the ounce is the eighth part of a mark, citing *Cassanens de consuetud. Burg. Rab. prim. sect. 7. verb. Solz Turnoys*. A mark of Silver every man knows is now thirteen shillings and four pence.

Marktzeld, more truly **Marktgeld**; It signifies Toll of the Market. The word *Zeld* denoting a payment. It is else-where written *Markethgald. Plac. apud Cestriam, 31 E. 3.*

Mark-peny, Every Inhabitant at *Maldon* who had Pipes or Gutters laid out of their Houses into the Street, paid one penny, *Hill. 15 E. 1. Mr. Phillips of Purveyance.*

Market, Mercatus, May be derived from the French *Marché*, i. *Emporium*; it signifies with us the same thing, and also the liberty or privilege whereby a Town is enabled to keep a Market, *Old Nat. Brev. fol. 149.* So doth *Bracon* use it, *lib. 2. cap. 24. num. 6. & lib. 4. cap. 46.* where he shews, That one Market ought to be distant from another, *Sex Leucas & dimidium & tertiam partem dimidia.* The reason thereof both he and *Fleta* give in these words, *Quia omnes rationabiles dieta constant ex 20. miliaribus. Dividatur ergo Dieta in tres partes, prima autem matutina datur cunctibus versus mercatum, secunda datur ad emendum & vendendum; quæ quidam sufficere debet omnibus nisi sint forte mercatores statarii, qui merces deposuerint & exposuerint venales, quibus necessaria erit prolixior mora in mercatu. & tertia pars relinquitur redeuntibus de mercatu ad propria, &c. lib. 4. cap. 28. sect. Item refert.* By the Statute 27 H. 6. 5. all Fairs and Markets are forbidden to be kept upon any Sunday, or upon the Feasts of the Ascension of our Lord; Corpus Christi, or the Assumption of our blessed Lady; All-Saints or Good-Friday, except for necessary Victual, and in the time of Harvest.

Marle, Marla, Is a kind of Earth or Mineral, which men in divers Counties of this Kingdom cast upon their Land to make it more fertile: It is also called *Malin*, 17 E. 4. cap. 4.

Marlerium or Marletum, A *Marlepit*, Mr. *Dugdale* hath an old Deed by him, wherein is mentioned this word, *Sciunt, &c. quod ego Rog. la Zouch. dedi, &c. & quod habeant annuam libertatem, &c. in boscis, in planis, &c. in marleriis & omnibus aliis locis ad prædict. Manerium de Tonge spectant. Ex quod capiant marlam pro voluntate sua ad terram suam marlend, &c. Reddenda, &c.* And *Chéwemay* read twenty Acres terra *Marlatas*, that is, *marled Land*.

Marque, From the Saxon *Meare*, *signum*: We use the word in the same sense to this day, when we say, Give such a thing a mark or sign; but in our ancient Statutes it signifies as much as *Reprisals*, as Anno 4 H. 5. cap. 7. where *Marque* and *Reprisal* are used as Synonyms; and Letters of *Marque* are found in the same signification in the same Chapter. See *Reprisals*, and see also *Marches*.

Marquis or Marquess, Marchio, Is now a Title of Honor next before an Earl, and next after a Duke; by the opinion of *Hotoman*, verb. *Marchio in verbis feudalibus*. The Name is derived from the German *March*, i. *Limes*, signi-

fying originally as much as *Custos limitis*, or *Comes & præfectus limitis*. It was an ancient Custome among the Britains, and after them of the Saxons, to give the Title of *Reguli* to all Lords that had the Charge and Custody of *Marches* and *Limits*. See *Seldens Mare Claus. lib. 2. cap. 19.* From hence it was, that in the time of *Richard the Second*, came up first the Title of *Marquess*, which is a Governor of the *Marches*; for before that time, those that governed the *Marches*, were called commonly *Lords Marchers*, and not *Marquesses*, as Judge *Dodaridge* hath observed in his *Law of Nobility and Peerage*, under the Title of *Marquesses*, page 31.

Marsum, A word used in *Doomsday Book*, and interpreted by Mr. *Agar* of the Receipt of the Exchequer, to signify a quantity of Coyn, *sed quære*.

Mariscus, A word frequent in *Doomsday*, and signifies *Palus*, or *locus Paludosus*, a marshy or fenny Ground. See *Doomsday Book*.

Marrow, Was a Lawyer of great Account in *Henry the Seventh's* days, whose learned Readings are extant, but not in Print, *Lamb. Eirenarch. lib. 1. cap. 10.*

Marshall. See *Marshall*.

Marternes. See *Furze*.

Partial Law, Is the Law of War, depending upon the Pleasure of the King, or his Lieutenant: for though the King in time of Peace never makes any Laws, but by common consent in Parliament; yet in War he useth absolute Power, inasmuch that His word is a Law, *Smith de Repub. Anglor. lib. 2. cap. 4.* See *Law of Arms*.

Paſt, Glans, *Glandis nomine continentur glans, castanea, fagino, ficus & alia quæque eduli & pasci poterunt præter berbam*, *Bracon, lib. 4. 226.* See *Persona*.

Paſter of the Rolls, *Magister Rotulorum*, Is an Assistant to the Lord Chancellor, or Lord Keeper, of the Great Seal of England, in the high Court of Chancery, and, in his absence, heareth Causes there, and giveth Orders, *Crompt. Jur. fol. 41.* His Title in his Patent is, *Clericus parve Bagæ, Custos Rotulorum & domus conservorum*. This *Domus conservorum* is the House where the Rolls are kept, so call'd, because the Jews that were converted to Christianity inhabited there: But his Office seems to take denomination from the safe keeping of the Rolls of all Patents and Grants that pass the Great Seal, and of all Records of the Court of Chancery, &c. He is called *Clerk of the Rolls*, 12 R. 2. cap. 2. and in *Fortescue*, cap. 24. and no where *Master of the Rolls*, until 11 H. 7. 20. and yet 11 H. 7. cap. 25. he is also called *Clerk*: Sir *Thomas Smith de Rep. Ang. lib. 2. cap. 11.* saith, He might not unfitly be called *Custos Archivorum*: The Offices of the six Clerks, Clerks of the Petty-bag, Examiners of the Court, and Clerks of the Chapel, are all in his dispose, Anno 14 & 15 H. 8. cap. 1. See *Rolls*.

Paſter of the Mint, Anno 2 H. 6. 14. Is now called the *Warden of the Mint*; and his Office is to receive in the Silver and Bullion to be Coyned, and to take care thereof, &c.

Paſter of the Court of Wards and Liveries, *Magister Curie Wardorum & Liberationum*,

rationum, was the chief Officer and Judge of the Court, named and assigned by the King, to whose Custody the Seal of the Court was committed. See Anno 33 H. 8. cap. 33. But this Court with the Officers, Members, Power and Appurtenances thereof is taken away and dissolved by the Statute made in Anno 12 Car. 2. cap. 24.

Master of the Horse, Is he that hath the Rule and Charge of the King's Stable, being an Office of high Account, and always bestowed upon some Noble-man of great Merit. He is mentioned 39 Eliz. 7. and 1 E. 6. 5. This Officer, under the Roman Emperors, was called *Comes sacri stabuli*.

Master of the Posts, Was an Officer of the King's Court, that had the appointing, placing and displacing of all such through England as provide Post-horse, for the speedy passing of the King's Messages, and other Business, in the thorow-fair Towns where they dwell; as also to see that they keep a certain number of convenient Horses of their own, and when occasion is, that they provide others wherewith to furnish such as have warrant from him to take Post-horses either from or to the Seas, or other border or places within the Realm: He likewise hath the care to pay them their Wages, and make them allowance accordingly as he shall think meet: This Officer is mentioned Anno 2 E. 6. 3. But now by a Statute made 12 Car. 2. cap. 34. One General Letter-Office or Post-Office is settled in London, the Master of which is appointed by the King by Letters Patent, with Rates and Rules prescribed in the Act for carriage of Letters. The Master thereof at present is his Royal Highness James Duke of York.

Master of the Armoury, Is he that hath the Care and Over-sight of His Majesty's Armour in any standing Armories, with Power of placing and displacing all inferior Officers thereto appertaining: Mention is made of him 39 Eliz. cap. 7.

Master of the Jewel-House, Is an Officer in the King's Household, of great Credit, being allowed *Bouge of Court*, that is, Dyet for himself and inferior Officers, viz. Clerks of the Jewel House, and a special Lodging in Court, having Charge of all Plate of Gold, of Silver double or parcel gilt, used for the King or Queens Table, or to any Officer of Account that attends in Court, and of all Plate remaining in the Tower of London, of Chains and loose Jewels, not fixed to any Garment: He is mentioned 39 Eliz. cap. 7.

Master of the King's Household, *Magister Hospitii Regis*, Is otherwise called Grand Master of the King's Household, and also Lord Steward of the King's most honourable Household, 32 H. 8. 39. But in the first of Queen Mary, and ever since he is called Lord Steward of the King's Household, under whom there is a principal Officer called the Master of the Household, of great Authority as well as Antiquity.

Master of the Ordnance, 39 Eliz. 7. Is a great Officer, to whose Care all the King's Ordnance and Artillery is committed, being some great man of the Realm, and expert in Martial Affairs.

Masters of the Chancery, *Magistri Can-*

cellariae, are Assistants in Chancery to the Lord Chancellor, or Lord Keeper, of the Great Seal, in matters of Judgment. Of these, there are some Ordinary, some Extraordinary: Of Ordinary there are twelve (whereof the Master of the Rolls is accounted one) whereof some sit in Court every day in each Term, and have referred to them (at the Lord Chancellors, Lord Keepers, or Master of the Rolls discretion) interlocutory Orders, for stating Accounts, computing Damages, and the like; taking of Oaths, Affidavits, and acknowledgments of Deeds and Recognizances. The Extraordinary do Act in all the Country ten miles from London, by taking Recognizances and Affidavits, acknowledgment of Deeds, &c. for the ease of the Subject.

Master of the King's Musters, Is a Martial Officer in all Royal Armies most necessary, as well for maintaining the Forces compleat, well armed and trained, as also for prevention of such Frauds as otherwise may exceedingly waste the Princes Treasure, and extremely weaken the Forces: He hath the over-sight of all the Captains, and their Companies, and ought to have at the beginning delivered unto him by the Lord General perfect Lists and Rolls of all the Forces both Horse and Foot, &c. He is mentioned Anno 2 E. 6. cap. 2. and called Muster-Master-General, 35 Eliz. 4.

Master of the Wardrobe, *Magister Garderobe*, Is a great and principal Officer in Court, having his Habitation and Dwelling-house belonging to that Office, called *The Wardrobe*, near Puddle-wharf in London: He hath the Charge and Custody of all former Kings and Queens ancient Robes remaining in the Tower of London, and of all Arras and Tapestry Hangings, Bedding, &c. He hath also the Charge and delivering out of all Velvet or Scarlet for Liveries, to any of his Majesty's Servants, &c. mention is made of him 39 Eliz. 7.

Masura terræ, Sunt in eisdem mensuris 60. Domus plus quam ante fuerunt, Doomday. It is a quantity of Ground, containing about four Oxgangs.

Matter in Deed, and **Matter of Record**, Are said to differ thus, In *Old Nat. Brev. fol. 19*. Matter in Deed seems to be nothing else but a Truth to be proved, though not by any Record: And Matter of Record is, that which may be proved by some Record: For example, If a man be sued to an Exigent, during the time he was in the King's Wars; this is matter in Deed, and not matter of Record: And therefore he that will alledge this for himself, must come before the Scire facias for execution be awarded against him, for after that nothing will serve but matter of Record; that is, some Error in the Process appearing upon Record. *Kitchin, fol. 216*. maketh also a difference between matter of Record, and a specialty and nude matter; Where he saith, That nude matter is not of so high a nature as either matter of Record or a specialty, otherwise there called matter in Deed; whereby it seems, That nude matter is a naked allegation of a thing done, to be proved only by Witnesses, and not either Record or other specialty in writing under Seal.

Maugre, Is a Compound of the two French words *Mal* and *Gre*, i. *iniquo animo*; so that

that it is as much as to say, with an unwilling mind, or in despite of another, and so it is used in *Lit. fess.* 672. Where it is said, That the Husband and Wife shall be remitted *maugre* the Husband, that is, in despite, or against the Will of the Husband.

Maund, A kind of great Basket or Hamper containing eight Bales, or two Fats. See the *Book of Rates*, fol. 3.

Maxims in Law, Are Positions and The-
ses, being conclusions of Reason, and univer-
sal Propositions, so sure and perfect, that they
may not be impugned or disputed. For *Co.* upon
Lit. fess. That *Principia probant non probantur*, and
therefore *contra negantem Principia non est disputan-
dum*: It is another maxim, That as no Estate can be
vested in the King, without matter of Record, so none
can be divested out of him, but by matter of Record;
For things are dissolved as they are contracted,
Co. Rep. 1. Chalmers's Case. Another, That an Ob-
ligation, or other matter in Writing, cannot be discharged
by an Agreement by word. And *Argumentum ab authori-
tate fortissimum est in Lege, Co. on Lit. pag. 141.* and
many other. See *Co. on Lit. fol. 11.* And see also
Doctor and Student.

Mayor, Is the chief Magistrate of a City,
and anciently among the Britains call'd *Meyr*, which
is derived from the *Brittish* word *Miret*; which
signifies *Custodire*, to keep and preserve; and
not from the Latine *Major*, greater, Anno 1189.
Richard the First changed the Bayliff of London
into a Mayor, and by that example 1204. King
John made the Bayliff of *Kings Lyn* a Mayor, while
Normich obtained not that Title till the Seventh of
Henry the Fifth 1419. See more of this word in
Spelm. Gloss.

Mealesrents, Are certain Rents still so
called, but now paid in money, which heretofore,
by some Tenants, in the honour of *Clun*, were
paid in meat, to make meat for the Lord's
Hounds.

Meane, *Medius*, Signifies the middle, be-
tween two extreames, and that either in time or
dignity. For example of the first, His Action
was mean betwixt the Disseisin made to him and
his recovery, that is in the interim, (or as we usu-
ally say in the mean time.) Of the second, there
is Lord Mean or *Mesne*, (mentioned in the Statute
of Amortising Lands, made tempore E. 1.) and Tenant.
See *Mesne*.

Mease, *Messuagium*, Seemeth to come from
the French *Maison*, or rather *Meiz*, which word
you read in *Cassianus de Consuet. Burgund.* pag. 1195.
and interpreted by him *Mansus*. What *Mansus* is,
see *Mansion*: It signifies a Messuage or Dwelling-
house, Kitchen, fol. 139. and *F. N. B. fol. 2. Stat. Hi-
berniz*, 14 H. 3. and 21 H. 8. 13. In some places
called corruptly a *Mise* or *Miseplace*. See *Mise*, and
Mese, and *Mesuage*.

Measne. See *Mesne*.

Meason: due, In French *Maison de dieu*,
Domus Dei; A House of God, A Monastery, Re-
ligious House or Hospital; the word is men-
tion'd 2 & 3 P. & M. cap. 23. 39 *Eli. 5.* and
15 *Car. 2. 7.*

Measure, *Mensura*, According to the 25th
Chapter of *Mag. Chart.* and the Stat. 17 *Car. 1. cap.*
19. all Weights and Measures in this Kingdom

ought to be the same, and according to the King's
Standard. See 4 *Inst. 273. & Mensura.*

Measurer. See *Alneger*.

Medfee, The *Saxon Dictionary* interprets it
to be a Bribe or Reward; it also signifies that
Compensation given in an Exchange, where the
things exchanged are not of equal value; as in
4 E. 3. *Hoc scriptum fact. 20. die Decemb. inter Domi-
num Hugonem de Courtenay ex parte una & Rich. Stan-
lake, & Johannam uxorem ejus ex altera parte testatur,
quod idem Dominus Hugo in excambium remissit, &c.*
and at last it follows, *Quod ipsi non dabunt Medfee.*
See *Arrura*.

Medietas Lingua, Denotes a Jury impa-
nelled upon any Cause, wherein a Stranger is
party, whereof the one half consists of Denizens,
the other of Strangers, and is used in Pleas, where
one party is a Denizen, and the other a Stranger;
and this manner of Tryal was first given by the
Statute of 27 E. 3. Stat. 2. cap. 8. and 8 H. 6.
cap. 29. And by the Statute of 28 E. 3. cap. 13.
it was granted in Cases where the King himself
was party with an Alien: Before the first of these
Statutes was made, this was wont to be obtained
of the King, by Grant made to any Company of
Strangers, *Stamf. Pl. Cor. lib. 3. cap. 7.* and is called
a *Party-Jury*, Anno 14 *Car. 2. cap. 11.*

Medio Acquietando, Is a Writ Judicial,
to distrain a Lord for the acquitting a mean
Lord from a Rent which he formerly acknow-
ledged in Court not to belong to him, *Reg. Jud.*
fol. 29.

Mediterranean, Is that which passeth
through the midst of the Earth. And for that
reason, the Sea which stretcheth it self from West
to East, dividing Europe, Asia and Africa, is called
The Mediterranean Sea; It is mentioned 12 *Car. 2.* in
the Statute of Tonnage.

Medium Tempus, Was of old taken to
signifie the mean Profits, as *Annam, diem & medium
tempus*. See *Flem.*

Medlese, *Crompt. Just. of Peace*, fol. 193.
Is that which *Bracton* calleth *Medletum*, lib. 3. tract.
2. cap. 35. It signifies Quarrels, scuffling or brawling,
and to be derived from the French *Mes-
ler*, i. *miscere*, *Culpa dicitur quam quis inopinatè com-
miserit non rixando solum & pugnando sed immiscendo
se pacifice rei cuius vel negotio*, saith *Spelman*. Hence
our usual Phrase To meddle with other Folks business.

Meere, *Merus*, Though an Adjective, yet
is used as a Substantive, to signifie *meere right*, *Old
Nat. Brev. fol. 2.* in these words. This Writ hath
but two Issues, viz. joyning the *mise* upon the
meere, and that is to put himself in the great *Assise*
of our Sovereign Lord the King, or to joyn *Bar-
tel*. See *Mise*.

Megbote. See *Megbore*.

Meld-feot, The reward and recompence
due and given to him that made the discovery of
any breach of penal Laws committed by ano-
ther. The Promoter or Informers Fee, see the
Saxon Dictionary.

Meliores. See *Tales*.

Meiny, *Menagium*, French *Mesnie*, As the
Kings *meiny*, 1 R. 2. cap. 4. That is, the King's Fa-
mily or Household-Servants.

Melius inquirendo, Is a Writ that lyeth
for

for a second inquiry of what Lands and Tenements a man died seized, where partial dealing was suspected upon the Writ of *Diem clausit extremum*, *Fitz. Nat. Brev. fol. 255.*

Memories, Are some kind of Remembrances or Obsequies for the dead, in Injunctions to the Clergy, 1 E. 6.

Mentials, As *menial Servants*, (a derivative from *Mania*, signifying the Walls of a House, or other place,) are Household-Servants, that is, such as live within the Walls of their Master's House, mentioned in the Stat. 2 H. 4. 21.

Mensura, In a legal sense is taken for a Bushel, as *Mensura Bladi*, a Bushel of Corn. So in the Register of the Priory of Cokesford, it is used to the same purpose, viz. *Prior habet mensuras tam aridorum quam liquidorum signatas signo Domini Regis & quod nullus debet vendere nec emere in foro nisi per eas.*

Mensura Regalis, The King's Standard-measure kept in the Exchequer, according to which all others are to be made. See 17 Car. 1. cap. 19. *Vide Mesura.*

Merchenlage, Is one of those three Laws out of which the Conqueror framed our Common Laws with a mixture of the Laws of Normandy, and was the Law of the Mercians, when they governed the third part of this Realm. For Camden in his *Britannia*, pag. 94, &c. saith, That in the year 1016. this Land was divided into three parts, whereof the West Saxons had one, governing it by the Law called *West-Saxonlage*, and that contained these nine Shires, Kent, Suffex, Surrey, Barkeshire, Hampshire, Wiltshire, Somerset, Dorset and Devonshire. The second by the Danes, which was ruled by the Laws called *Danelage*, and that contained these fifteen Shires, York, Derby, Nottingham, Leicester, Lincoln, Northampton, Bedford, Buckingham, Hertford, Essex, Middlesex, Norfolk, Suffolk, Cambridge and Huntingdon. The third was possess'd and govern'd by the Mercians, whose Law was called *Merchenlage*, and held these eight, Gloucester, Worcester, Hereford, Warwick, Oxford, Chester, Salop and Stafford. Out of these three (which relate not at all to a different Law, Customs or Usage, but to several sorts of Amerciements, Mults and Fines, for the transgression of one and the same Law,) as we said, with some additions, was framed, that which now we call *The Common-Law of England.*

Mercimoniatus Angliæ, Was of old time used for the Impost of England upon Merchandise.

Mercy, *Miserericordia*, Signifies the Arbitrement or discretion of the King, Lord or Judge, in punishing any Offence, not directly censured by the Law: As to be in the grievous mercy of the King, 11 H. 6. 6. is to be in hazard of a great Penalty. See *Miserericordia.*

Mertlage. See 9 H. 7. fol. 14. b. Seems to be a corruption of, or a Law-French word for Martyrologe.

Mete. See *Mease.*

Mesn or Measn, *Medius*, May be deduced from the French *Maisne*, i. minor natus, and signifies him that is Lord of a Mannor, and so hath Tenants holding of him; yet himself holds of a Superior Lord, and therefore not absurdly

drawn from the French *Maisne*, because his Tenure is inferior and minor to that of which he holds. *Mesne* also signifies a Writ which lyeth, where there is Lord, *Mesne* and Tenant. The Tenant holdeth of the *Mesne* by the same Services, whereby the *Mesne* holdeth of the Lord; and the Tenant of the *mesne* is distrained by the superior Lord, for that his Service or Rent which is due to the *mesne*, *Fitz. Nat. Brev. fol. 135. 13 E. 1. cap. 9.*

Mesnalty, *Medietas*, Cometh of *mesn*, and signifies nothing but the right of the *Mesne*, as the *Mesnalty* is extinct, *Old Nat. Brev. fol. 44.* if the *mesnalty* descend of the Tenant. *Kitchin, fol. 147.* For farther understanding whereof, take these words out of the Customary of Normandy, *Medietati tenentur feuda, quando aliqua persona intervenerit Dominum & tenentes; Et hoc modo tenent omnes Postnati, mediante ante-nato.*

Messorius, A Mower or Reaper, one that works Harvest-work, *Fleta, lib. 2. cap. 75.*

Messenger of the Exchequer, Is an Officer in that Court, of which there are four, who as Pursuivants attend the Lord Treasurer, to carry his Letters and Precepts. See Pursuivant.

Messuage, *Messuagium*, Is properly a dwelling-house, with some adjacent Land assigned to the use thereof, *West, part 2. Symb. tit. Fines, sect. 26. Bract. lib. 5. cap. 28. and Plowden, fol. 169. 170.* Where it is said, That by the Name of a *Messuage* may pass also a Curtilage, a Garden, an Orchard, a Dove-house, a Shop, a Mill, a Cottage, a Toft, a Chamber, a Cellar, &c. yet may they be demanded by their single Names. *Messuagium* in Scotland, signifies the principal place or Dwelling-house within a Barony, which we call a Mannor house. *Skene de verbo.* Signif. verbo *Messuagium*; In some places it is called the *scite* of a Mannor. A *Præcipe* lies not *de dome*, but *de messuagio*, *Co. on Lit. cap. 8.*

Mestilo, *Mestine*, Or rather *Mescellane*, That is, Wheat and Rye mingled together, -- *Ex nonam garbam frumenti, mestilonis, siliquis & omnis generis bladi*, *Pat. 1 E. 3. par. 1. m. 6.*

Meregabel, *Cibi gabulum seu vectigal*, A Rent paid in Victuals, a thing usual of old, as well with the King's Tenants as others, till Henry the First changed it into money, *Taylor's Hist. of Gavelkind, pag. 118.*

Mereglin, A kind of Drink made of Water, Herbs, Spice and Honey boyled together: 'Twas an old Brittainish Drink, and still continues from Wales, in repute in England, and mentioned in the Act for Excise, 15 Car. 2. 9.

Michis, A sort of White-loaves paid as a Rent in some Mannors.

Mile, *Miliare*, Is the distance of one thousand paces, otherwise eight Furlongs, every Furlong to contain forty Lugs or Poles, and every Lug or Pole sixteen Foot and a half, 35 Eliz. 6.

Milbernit, Are a kind of Canvas, whereof Sayl-Clothes, or other Furniture for Ships, are made, *Anno 1 Jac. cap. 24.*

Militia, The Furniture and Habilliments for War, 12 Car. 2. cap. 2.

Milleate, A Trench to convey Water to or from a Mill, more truly a *Mill-eate*.

Mineral Courts, *Curia Mineratiles*, Are peculiar Courts for regulating the Concerns of Lead-Mines, as Stannary Courts are for Tin.

Miniments, *Minumenta*, Are the Evidences or Writings, whereby a man is enabled to defend the Title of his Estate, 5 R. 2. 8. and 35 H. 6. 37. *Wangford* says, This word *Miniment* includes all manner of Evidences. See *Muniment*.

Ministri Regis, Extend to the Judges of the Realm, as well as to those that have Ministerial Offices, Co. 2. Inst. fol. 208.

Miniver. See *Furze*.

Minover, 7 R. 2. 4. Seemeth to be compounded of two French words, *Main*, i. manus, and *Ouvrier*, i. operari, and signifies some Trespass or Offence committed by a man's Handy-work in the Forest, as an Engine to catch Deer: *Britton* uses the word *Main-overer* to occupy and manure Land, cap. 40. and cap. 62. *Mainoure* for Handy-work. Our English word *Manure* hath a great similitude with it.

Minstrel, *Minstrellus*, From the French *Menestrel*, a Fidler or Piper, mentioned 4 H. 4. cap. 27. Lit. Pat. 24. April, 9 E. 4. Quod marescalli & Ministrelli pradii per se forent & esse deberent unum corpus & una communitas perpetua, &c. See King of the Minstrells.

Mint, Is the place where the King's Coyn is formed, be it Gold or Silver, which is at present, and long hath been the Tower of London, though it appear by divers Statutes, that in ancient times the Mint hath been also at *Caleys*, 21 R. 2. 16. 9 H. 5. Stat. 5. cap. 5. The Officers belonging to the Mint have not always been alike: At present they are these, The Warden who is the chief of the rest, and is by his Office to receive the Silver of the Goldsmiths, and to pay them for it, and to Over-see all the rest belonging to this Function: His Fee is a hundred pound per annum. The Master-worker, who receiveth the Silver from the Warden, causeth it to be melted, and delivereth it to the Moniers, and taketh it from them again when it is made; His allowance is not any set Fee, but according to the pound weight. The third is the Controller, who is to see that the Money be made to the just assise, to over-see the Officers, and control them, if the Money be not as it ought to be; his Fee is a hundred Marks per annum. Then is the Master of Assay who weigheth the Silver, and seeth whether it be according to the Standard; his yearly Fee is likewise a hundred Marks: Then is the Auditor to take the Accounts. The Surveyor of the melting, who is to see the Silver cast out, and not to be alter'd after it is delivered to the Melter, which is after the Assay-Master hath made trial of it. The Clerk of the Irons, who seeth that the Irons be clean, and fit to work with. The Graver, who graveth the Stamps for the Money. The melters, that melt the Bullion before it come to the Coyning. The Blanchers, who do anneal, boyl and cleanse the Money. The Porters, who keep the Gate of the Mint. The Provost of the Mint, who is to provide for all the Moniers, and to over-see them. Lastly, The Moniers, who are some to shear the Money, some to forge it, others to beat it broad; some to round it, and some to stamp or coyn it.

Their Wages is uncertain, according to the weight of Money coyned by them.

Minute Tythes, *Minuta sive minores Decime*, Small Tythes such as usually belong to the Vicar, as Herbs, Seeds, Eggs, Honey, Wax, &c. See 2. par. Inst. fol. 649. and *Udal* and *Tindales Case*, Hill. 22 Jac. Where the Tyth of Woad was adjudged *Minuta Decima*, Cro. Rep. fol. 21. See *Tythes*.

Misadventure or *Misadventure*, *Infortunium*, Has in Law a special signification for the killing of a man, partly by negligence and partly by chance. As if one thinking no harm, carelessly throws a stone, or shooteth an Arrow, &c. wherewith he killeth another: In this case he commits not Felony, but only loofeth his Goods, and hath pardon of course for his life, *Stamf. pl. cor. lib. 1. cap. 8. Britton*, cap. 7. distinguisheth between *Aventure* and *Misadventure*: *Aventure* he maketh to be meer chance; as if a man being upon or near the Water, be taken with some sudden Sickness, and so fall in and is drowned, and into the Fire and be burned to death. *Misadventure* he maketh, where a man cometh to his death by some untoward violence, as the fall of a Tree, or of a Gate, the running of a Cart-wheel, the stroke of a Horse, or such like: So that *Misadventure* in *Stamford's* Opinion is construed somewhat more largely than *Britton* understandeth it, *West*, *Symbol. part 2. tit. Inditement*, sect. 48. makes *Homicide casual* to be meerly casual or mixt. *Homicide* by meer chance he defineth sect. 49. to be, when a man is slain by meer fortune, against the mind of the Killer; as if one hewing, the Ax flyeth off the haft, and killeth a man, and this is all one with *Britton's* *Misadventure*, *Homicide by chance mixed* he defineth sect. 50. to be, when the Killers ignorance or negligence is joyned with the chance; as if a man lop Trees by the High-way-side, by which many usually travel, and cast down a Bough, not giving warning, &c. by which a man passing by is slain.

Miscognisant, Ignorant, or not knowing. In the Stat. 32 H. 8. cap. 9. against *Champerly* and Maintenance. It is Ordained, That the Justices of Assise shall twice every year, in every County, cause open Proclamation to be made of this present Act, to the intent no person should be ignorant or miscognisant of the dangers and penalties therein contained.

Discontinuance, *Kitchin*, fol. 231. Is the same with *Discontinuance*. See *Discontinuance*.

Mise, *Misa*, Is a French word signifying as much as *Expensum* in Latine, and the Latine word *Misa* is so used in *Kitchin*, fol. 144. & *West*, *Symbol. part 2. tit. Proceedings in Chancery*, sect. 21. This word has divers significations, as first it is a Gift or Customary present which the People of Wales give to every new King or Prince at their entrance into that Principality. It was formerly given in Cattel, but when that Dominion was annexed to the English Crown, the Gift was changed into Money, and that is now 5000 li. or more, which happened to be thrice paid in King James his Reign. First, At his own coming to the Crown, and that Principality. Secondly, When Prince Henry was created Prince of Wales. And thirdly, When King Charles the First succeeded

ceeded him in that Principality. *Mise* etiam dicuntur prestationes ille quas ob fruendas pristinas immunitates Cestrie Palatinatus subditi novo cuiq; Comiti impendunt, that is, 3000 Marks for that County. By 27 H. 8. It is Ordain'd, That Lord Mayors shall have all such Mises and Profits of their Lands as they have had in times past, &c. See 2 & 3 E. 6. 36. 33 H. 8. 13. 4 & 5 P. & M. cap. 11. Sometimes Mises are taken for Taxes or Tallages, Anno 25 E. 1. 5. Sometimes for Costs and Expenses, as pro misis & custagiis, for Costs and Charges ordinarily used in the Entries of Judgments in personal Actions. *Mise* is also vocabulum artis, appropriated to a Writ of Right so called, because both Parties have put themselves upon the meer right to be tryed by the Grand Assise, or by Battel. So as that which in all other Actions is called an *Issue*, in a Writ of Right is called a *Mise*, unless a collateral point be tryed, and there it is called an *Issue*, Co. on Lit. fol. 294. Lit. fol. 102. and Old Nat. Brev. fol. 2. 37 E. 3. 16. To joyn the *Mise* upon the meer, is as much to say as to joyn the *Mise* upon the clear Right, and that in more plain termes, is nothing else but to joyn upon this point, whether hath the more Right the Tenant or Demandant, Lit. lib. 3. cap. 8. fol. 101. This word is also sometimes used for a Particle, signifying as much as *cast* or *put upon*, Co. 6. Rep. fol. 124. *Saffin's Case*. And sometimes corruptly for *Messe*, a Messuage or Tenement, as a *Mise-place* in some Mannors is taken to be such a Messuage or Tenement as answers the Lord a Heriot at the death of its owner, 2 Inst. fol. 285. which in our Law-French is written *Mees*.

Miserere, Is the Name, and first word of the 51. Psalm, being most commonly that which the Ordinary gives to such guilty Malefactors as have the benefit of Clergy allowed them by the Law, and is usually called the Psalm of Mercy.

Misericordia, Is in Law used for an arbitrary Amerciament imposed on any for an Offence; for where the Plaintiff or Defendant in any Action is amerced, the Entry is *Ideo in Misericordia*. *Bracton*, lib. 4. tract. 5. cap. 6. hath these words, *Item si quis in misericordiam incidit pro disseisina, non remanebit misericordia exigenda, si ille qui amiserit, quassiverit convictionem*. *Kitchin*, fol. 78. out of *Glanville* saith thus, *Est autem misericordia, quia quis per iuramentum legalium hominum americiatus est ne aliquid de suo honorabili contentemeto amittat*. See *Glanville*, lib. 9. cap. 11. *Fitzherbert* sayes in his Nat. Brev. fol. 75. That it is called *Misericordia*, because it ought to be very moderate, and rather less than the Offence, according to the tenour of *Magna Charta*, cap. 14. Therefore if a man be unreasonably amerced in a Court not of Record, as in a Court Baron, &c. there is a Writ called *Moderata Misericordia*, directed to the Lord, or his Bayliff, commanding them that they take moderate Amerciaments. Sometimes *misericordia* is to be quit, and discharged of all manner of Amerciaments that a man may fall into in the Forest. See *Crompton Jur.* fol. 196. Vide *Amerciament*, *Mercy*, and *moderata misericordia*.

Miscefians, Misdeeds or Trespases, --- *Jury* to enquire of all Purprestures and Miscefians, *Cro. Car.* fol. 498. and *Miscefor* a Trespasser, *Co. 2. Inst.* fol. 200.

Mishering. See *Abishersing* and *Miskering*.

Miskening, (*Meskenninga*, Leg. H. 1. cap. 12.) *iniqua vel injusta in jus vocatio*; inconstanter loqui in Curia---Renovamus etiam & confirmamus privilegia antiquorum Regum atq; ob reverentiam Dominae nostrae perpetuae Virginis Mariae, sanctique Benedicti, sanctarumq; virginum, omnibusq; futuris ibidem Abbatibus in tota possessione Monasterii Sacham & Socham, Theleminumq; suum in terra & in aqua concedo & consuetudines ut ab omnibus apertius & plenius intelligantur, Anglice scriptas, scilicet, Mundbriche, Peardwite, Fitwite, Blodwite, Miskening, Frithfoke, Hamlockne, Forthal, Forphange, Theisephang, Hangwite, Frithbrich, Utlepe, Insongenthes, Supbriche, Tol et Tem aliasq; omnes leges & consuetudines quae ad me pertinent tam plene & tam libere, sicut eas in manu mea habebam, Confirm. fundacionis Monasti. de Ramsey per S. Edw. Conf. Mon. Ang. 1. par. fol. 237.

Miskering, *Hoc est quietius esse pro querelis coram quibuscunq; in transumptione probata*, M.S. L.L. Rob. Cot. pag. 262. See *Mishering*.

Misnomer, Compounded of the French *Mes*, which, in composition, always signifies a-mis, and *nomer*, i. nominare, it signifies the using of one Name for another, or misnaming. See *Brooke*, tit. *Misnomer*.

Misprision, *Mispriso*, Cometh of the French *Mespris*, contemptus, and signifies in our Law neglect or over-sight. As for example, *Misprision of Treason or Felony*, is a neglect or light account shewed of Treason or Felony committed, by not revealing it, when we know it to be committed, *Stamf. pl. cor. lib. 1. cap. 19.* Or by letting any Person committed for Treason or Felony, or suspicion of either, to go before he be indicted. *Misprision of Clerks*, 8 H. 6. 15. Is a neglect of Clerks in writing, or keeping Records: By the *misprision of Clerks* no Process shall be annulled or discontinued, 14 E. 3. cap. 6. Stat. 1. *Misprision of Treason* is the concealment, or not disclosing of known Treason, for which the Offenders are to suffer imprisonment during the King's Pleasure, lose their Goods, and the profits of their Lands during their lives, *Crompton Justice of Peace*, cap. *Misprision of Felony*, fol. 40. *West. Symbol. part 2. tit. Indictments*, sect. 63. in fine; *Misprision of Felony* is only finable by the Justices, before whom the Party is attained, *Crompton ibid.* The Justices of the Common-Pleas have Power to assise Fines and Amerciaments upon persons offending by *misprisions*, contempts or neglects for not doing, or misdoing any thing in or concerning Fines, *West Symbol. part 2. tit. Fines*, sect. 133. *Justices of Assise* shall amend the defaults of Clerks *misprision* of a Syllable, or Letter, or Writing, *Crompton Jur.* fol. 20. But here we are to observe; That other Faults may be accounted *Misprisions of Treason or Felony*, because some later Statutes have insisted that punishment upon them; that of old were insisted upon *misprisions*, whereof you have an example, *Anno 14. Eliz. cap. 3.* Of such as Coyn foreign Coyns, not current in this Realm, and of their Procurers, Ayders and Abettors. *Misprision* also signifies a mistaking, 14 E. 3. Stat. 1. cap. 6. Here note, That *misprision* is included in every Treason or Felony; and where any

man hath committed Treason or Felony, the King may cause him to be indited and arraign'd of *misprision* only if he please. See more hereof *Stauf. lib. 1. cap. 39. Vide etiam 3. Inst. fol. 36. & 139.*

Mistres. See Mife.

Mistrial, A false or erroneous Tryal, *Cro. Car. fol. 284. Delves Case.*

Misuser, Is an abuse of Liberty or Benefit; As he shall make Fine for his Misuser, *Old Nat. Brev. fol. 149.*

Missall, *Missale*, Is a Book containing all things to be daily said in the Mass; *Lindw. Provincial, lib. 3. tit. De Ecclesiis edificandis, cap. 2. Parochiani Ecclesiarum tenentur invenire rei divina supellectilem, viz. Antiphonarium, Gradale, Psalterium, Missale, Manuale, &c. See Spelman's Glossary.*

Myster, *Mysterium*, *Vita modus*, A Trade or Occupation, derived from the French *Mestier*, i. ars, artificium.

Mitta, From the Saxon *Mitten*, *mensura*, a Measure of ten Bushels, *M. S. In Wich. Salina redd. 30. mittas salis. Doomsday Book tit. Wirec. fire. In Libro Rames, M. S. sect. 38. & 143. Ego Wulfrum (uxor Anketelli) singulis annis vita mea ad festum sancti Benedicti quod est in estate decem mittas de la osto & 5. de grato, & 5. mittas farina triticia, & 8. pernas, & 16. caseos, & 2. vaccas pingues, de terra mea Hishelings pro respectu annuo eidem Ecclesie (Ramefens) procurari decerno. Spelm.*

Mittendo manuscriptum pedis finis, Is a Writ Judicial, directed to the Treasurer and Chamberlains of the Exchequer, to search and transmit the foot of a Fine acknowledged before *Justices in Eyre* into the Common-Pleas, &c. *Reg. Orig. fol. 14.*

Mittimus, Is a Writ by which Records are transferred from one Court to another: Sometimes immediately, as appears by the Stat. *5 R. 2. cap. 15.* As out of the Kings Bench into the Exchequer, and sometimes by a *Certiorari* into the Chancery, and from thence by a *Mittimus* into another Court, as you may see in *28 H. 8. Dyer, fol. 29. and 29 H. 8. Dyer, fol. 32.* This word is also used for the Precept that is directed by a Justice of Peace to a Gaoler, for the receiving and safe keeping a Felon, or other Offender, by him committed to the Gaol. Of divers other Uses and Applications of this word, see *Reg. Orig. in the Table.*

Mixt Tythes, *Decima mixta*, Are those of Cheese, Milk, &c. and of the young of Beasts, *co. 2. par. Inst. fol. 649.* See *Tyth*.

Mockadoes, A kind of Stuff made in England, and else where, concerning which see *23 Eliz. cap. 9.*

Moderata misericordia, Is a Writ for him that is amerced in a Court-Barron, or other, being not of Record for any Transgression or Offence beyond the quality of a Fault. It is directed to the Lord of the Court, or his Bayliff, commanding them to take a moderate amercement of the Party, and is founded upon *Magna Charta, cap. 24. Quod nullus liber homo amercietur nisi secundum qualitatem delicti, &c.* The rest touching this Writ, see in *R. N. B. fol. 75.* See *Misericordia.*

Modo & Forma, Are words of Art in Process and Pleadings, and namely, in the answer of the Defendant, whereby he denyeth himself to have done the thing laid to his charge, *modo & forma declarata*, *Kitchin, fol. 232.* It signifies as much as that clause in the Civil Law, *Negat allegata prout allegantur, esse vera.* Where *modo & forma* are of the substance of the Issue, and were but words of course. See *Co. on Lit. fol. 281.*

Modius, We take it usually to signifie a Bushel, and it is a Measure, but various according to the Custome of several Countreies, in some places containing more, in some places less.

Modius villa, *Donatio A Rthmail Regis Gwentiae Landaveni Ecclesiae circa Annum 986. Largitus est, &c. Villam Lann-Mibargel Liebrit cum tertia parte prati. Et 4. Modios Villa stipulat. M. S. Cod. Landaven. fol. 102. col. 2.*

Moer, It is a Danish word, signifying a Virgin or Maiden; the People of *Norfolk* in some measure retain the word to this day. The occasion of their first using it was this, *Norfolk* (which among other English Counties, was given by King Alfred to the Danes, Anno 876.) was totally inhabited by them, and their Customs, Laws and Speech there used. Now they call Virgins and young Maids *Moer*, and accordingly (as *Olaus Wormius* testifies, *Fest. Dan. lib. 1. cap. 6.*) they named such as were excellent Singers of the worthy Deeds of their Heroes, *Scaldmoer*, id. est, *Virgines contratrices*, and those that by Valor won Reputation *Scioldmoer*, that is, *Scutiferas Virgines*, by which name also they signifie the *Amazons*: But this, I confess, by the ignorant Rustick is corrupted, they pronouncing instead of *Moer*, a Virgin, *Mother*, a word well known to be of a different nature.

Modus Detinendi, Is when either Land, a sum of Money, or yearly Pension is given to the Parson, &c. by composition, as satisfaction for his Tythes in kind. See *2. Inst. fol. 490.*

Molendinum Bladonicum, A Cornmill, Ancient Charters have it *Molendinum bladum & molendinum de blade*: So a *Fulling-Mill* hath several Latine Appellations, as *Molendinum fullonicum*, *Molend. fullanicum*, *Molend. fallere*, *Molend. fullarium*, &c. A Wind-Mill, *Molendinum ad ventum, vel ventriticum*. A Water-Mill, *Molendinum aquaticum*. A Horse-Mill, *Molendinum equium*. A grinding or Griest-Mill, *Molendinum molare*. We read also for a Mill, *Molinum* and *Molius*, *Doomsday, tit. Sudsex. Terra Comitiss Rogerii, num. 11. Costrum Harundel, T. R. E. reddebat de quodam Molino 40 s. & ibidem alibi T. R. E. reddebat Oxensford, -- Comiti vero Algaro 10. libras adjuncto molino, quem infra civitatem habebat.*

Mopety, *Medietas*, Cometh of the French *Moitie* i. coequa vel media pars, and signifies the half of any thing, *Lit. fol. 125.*

Palasses, Is the refuse Sirrup in the boyling of Sugar, which the Statute *12 Car. 2. cap. 25.* prohibits to be mingled with Wine.

Molman, According to *Spelman*, signifies the Servants of a Monastery, *Fideles Ecclesiarum Ministeriales*. *Prior Lewens, pag. 16.* Item omnis *Molman* inveniet equum si habuerit ad portandum corrodium Prioris, &c. And again, pag. 21. *Omnis Lanceta, omnis Toftman, & omnis Molman, (qui non*

non sedet super Ogeland) debent spargere anam reiam de fiens, &c.

Monks Clothes, A certain kind of course Cloth, mentioned 20 H. 6. 20.

Monetatum, Mintage, The right and propriety of Coyning or Minting Money.

Moniers, Monetarii, Are Ministers of the Mint, which make and Coyn the King's Money, *Reg. Orig. fol. 262. and 1 E. 6. 15.* It appears in ancient Authors, That the Kings of England had Mints in several Counties of this Realm; and in the *Treatise* in the *Exchequer*, written by *Ockham*, I find, that whereas Sheriffs were usually obliged to pay into the King's Exchequer the King's sterling Money, for such Debts as they were to answer; they of *Cumberland* and *Northumberland* were admitted to pay in any sort of money so it were Silver: And the reason is there given, because those two Shires *Monetarios de antiqua institutione non habent.* Of later dayes the Title of *Moniers* hath been given to *Bankers*, that is, such as make it their Trade to deal in *Monies* upon returns.

Money, Moneta, Pecunia, Is that Metal, be it Gold or Silver, that receives an authority by the Princes *Impress* to be current; For as Wax is not a Seal without print, so Metal is not Money without Impression, *Co. on Lit. pag. 207.*

Monopoly, May not improperly be derived from the Greek *Μονος Solus*, and *πωλεις Vendo*, which signifies to sell alone, and so is a Privilege of the King (as some interpret it) by his Grant, Commission, or otherwise, to any person or persons of or for the sole buying, selling, making, working, or using any thing, whereby any person or persons are restrained of any freedom or liberty that they had before, declared against Law by 21 Jac. 3. except in some particular Cases, concerning which see 3. *Inst. fol. 181.* All *Monopolies* against *Magna Charta*, &c. *Co. 2. par. Inst. cap. 29.* So then all inclosing is a *Monopoly*, which is positively contradicted in *Mor's Rep. fol. 675.* *Darcy and Allen's Case*, because any Grant made by the King *pro bono Publico* is not a *Monopoly.* See *Grotius de jure belli & pacis. 233.*

Monster, Monstrum, A Monster born without lawful Matrimony, that hath not humane shape, cannot purchase, much less retain any thing; but if he have humane shape, he may be Heir, though he have some deformity in any part of his Body.

Monstrans de droit, Is as much as to say, The shewing of Right; In a legal sense it denotes a Suit in Chancery, for the Subject to be restored to Land and Tenements, which he shews to be his Right, though by Office found to be in the possession of another lately dead; by which Office the King is intitled to a Chattel, Freehold or Inheritance in the said Lands. And this *Monstrans de droit* is given by the Statutes 34 E. 3. cap. 14. and 36 E. 3. 13. See *Stamf. prerog. cap. 21.* and *Broke, tit. Petition,* and *Co. 4. Rep. fol. 54. Case of the Wardens and Commonalty of Sadlers.*

Monstrans de faits ou Records, Shewing of Deeds or Records is thus; Upon an Action of Debt brought upon an Obligation, after the Plaintiff hath declared, he ought to shew his Obligation, and so it is of Records. And the difference between *Monstrans de fait*, and *Oyer de faits* is this, He

that pleads the Deed or Records, or declares upon it, ought to shew the same; and the other, against whom such Deed or Record is pleaded, may demand Oyer of the same.

Monstraverunt, Is a Writ that lies for the Tenants in ancient Demesne, being distrained for the payment of any Toll or Imposition, contrary to their liberty which they do or should enjoy. See more in *F. N. B. fol. 14.*

Month or Moneth, Mensis, In Saxon Monath, is a space of time containing by the week 28 dayes, by the Calendar sometimes 30, sometimes 31. See *Co. lib. 6. fol. 61.* and *Kalendar-moneth.* Some have derived it from *μηνς*, *mensis*, and that from *μηνς*, *Luna*, but we suppose more truly from the German *Mon* or *Man*, one of their antique Deities and Kings, mentioned by *Tacitus*, *Ex hoc*, sayes the learned *Spelman*, *masculino (ut Hebraei) Lunam dicunt genere, Der mon, dominum; ejus & amasiam & cujus aspectu alias languet, alias respicit, Die son quasi hunc Lunam, hanc solem, Hinc & Idolum Luna, viri fingebant specie; non ut Verste-gan opinatur, femina, ex quo & vestem miram ad genia vix dimissam.*

Moot, Mota, Curia, placitum, conventus, From the Saxon *Gemote, conventus*, which may be deduced from the Saxon *Motian, placitare.* It is a Term well understood in the Inns of Court, to be that exercise, or arguing of Cases, which young Students perform at appointed times, the better to enable them for practice and defence of Clients Causes. The places where *Moot-Cases* were argued, was anciently called a *Moot-hall.* In the Inns of Courts there is a *Bayliff* or *Surveyor* of the *Moots* yearly chosen by the Bench, to appoint the *Mootmen* for the Inns of Chancery, and to keep account of performance of exercises both there and in the House. See *Orig. Judiciales, fol. 212.*

Mootmen, Are those that argue Readers Cases (call'd also *Moot-cases*) in the Houses of Chancery, both in Term-time, and also in Vacations, *Coke's Rep. 3. par. in Proximo.*

Mozatur or Demozatur in Legge, Signifies as much as *He demurres*, because the Party goes not forward in Pleading, but rests upon the Judgment of the Court in the Point, who deliberate and take time to argue and advise thereupon, *Co. on Lit. fol. 71.* See *Demurres.*

Moziam, Is all one in signification with the French *Morian*, i. *Cass*, a Head-piece, and that seems to be derived from the Italian *Morione*, *Anno 4 & 5 P. & M. cap. 2.* now called a *Pat.*

Mozling alias Mozling, Is that Wool taken from the skin of a dead Sheep, either dying of the Rot, or killed, 4 E. 4. 2. & 3. 27 H. 6. 2. This is written *Morkin*, 3 Jac. 18. *Morling* or *Sborling*, 3 E. 4. 1. and 14 Car. 2. 18. See *Sborling.*

Mozt-dancestoy. See *Affise.*

Moztgage, Mortgagium, vel mortuum vadum, Is compounded of two French words, viz. *Mort*, i. *Mors*, and *Sage*, i. *Pignus*: In Law it signifies a Pawn of Land or Tenement, or any thing moveable, laid or bound for Money borrowed, to be the Creditors for ever, if the Money be not paid at the day agreed upon: And the Creditor holding Land or Tenement upon this Bargain, is called *Tenant in Mortgage.* Of this we read in the

Grand Customary of Normandy, cap. 113. which see. *Glanville* likewise, lib. 10. cap. 6. defineth it thus, *Mortuum vadium dicitur illud, cuius fructus vel redditus interim percepti in nullo se acquiescant*. So you see it is called a *Dead Gage*, because whatsoever profit it yieldeth, yet it redeemeth not it self by yielding such profit, except the whole sum borrowed be paid at the day. See *Skene de verbor. Signif. verbo Mortgage*. He that pledgeth this Pawn or Gage, is called *The Mortgager*, and he that taketh it *The Mortgagee*, *West Symb.* part 2. tit. *Fines*, sect. 145. This, if it contain excessive Usury, is forbidden by 37 H. 8. cap. 9.

Mortmaine, *Manus mortua*, Is compounded of two French words, *Mort*, i. *mors*, & *maine*, i. *manus*: It signifies an alienation of Lands and Tenements to any Guild, Corporation or Fraternity, and their Successors, as Bishops, Parsons, Vicars, &c. which may not be done without the King's Licence, and the Lord of the Mannor, or of the King alone, if it be immediately holden of him. The reason of the name may be deduced from hence, because the Services, and other profits due, for such Lands as Escheats, &c. cometh into a *dead hand*, or into such a hand as holdeth them, and is not of power to deliver them, or any thing for them back again, *Magna Charta*, cap. 36. and 7 E. 1. commonly called *The Statute of Mortmaine*, and 18 E. 3. Stat. 3. cap. 3. and 15 R. 2. cap. 5. Polydore Virgil in the Seventeenth Book of his *Chronicles* mentions this Law, and giveth this reason of the Name, *Et Legem hanc manum mortuam vocarunt, quod res semel datas collegiis sacerdotum, non utiq; rursus venderentur, velut mortuae, hoc est, usui aliorum mortalium in perpetuum adeptae essent. Lex diligentius servatur, sic ut nihil possessionum ordini sacerdotali a quoquam detur, nisi Regio permisso*; But the forementioned Statutes be in some manner abridged by 39 Eliz. cap. 5. by which the Gift of Lands, &c. to Hospitals is permitted, without obtaining Licenses in Mortmaine. *Hoteman* in his *Commentaries De verbis feudalibus*, verbo *Manus mortua*, hath these words, *Manus mortua locatio est, quae usurpatur de iis, quorum possessio (ut ita dicam) immortalis est, quia nunquam heredem habere desinunt: Quae de causa res nunquam ad priorem dominum revertitur, nam manus pro possessione dicitur, mortua pro immortalis, &c.* *Petrus Belluga in speculo principum*, fol. 76. *Ius amortizationis est licentia capiendi ad manum mortuam*: To the same effect read *Cassan. de consuet. Burgund.* pag. 348. 387, 1183, 1185, 1201, &c. *Skene de verb.* Signif. faith, *Dimittere terras ad manum mortuam est idem atq; dimittere ad multitudinem sive universitatem, quae nunquam moritur, idq; per analogiam, seu a contrario sensu, because Commonalties never die.* The President and Governors for the Poor within the Cities of London and Westminster, may without licence in Mortmain, purchase Lands, &c. not exceeding the yearly value of 3000 pound, &c. by the Statute made 14 Car. 2. cap. 9.

Mortuary, *Mortuarium*, Is a Gift left by a man at his death to his Parish Church, for the recompence of his personal Tythes and Offerings not duly paid in his life-time. A Mortuary is not properly and originally due to an Ecclesiastical Incumbent from any, but those only of his own Parish. But by Custom in some places of this

Kingdom, they are paid to the Parsons of other Parishes, as the Corps passes through them. *Mortuaries* formerly were payable in Beasts; but by 21 H. 8. cap. 6. an Order and Rate is set down for the payment of mortuaries in money. Their payment was enjoyed by the Statute of *Circumspecte agatis*, made 13 E. 1. and also by several Constitutions. *Mortuarium*, sayes *Linwood*, sic dictum est, quia relinquitur Ecclesiae pro anima defuncti; In old time a Mortuary was called a *Corps-present*, (because the Beast was presented with the Body at the Funeral), concerning which see *Dugdale's Antiquities of Warwickshire*, fol. 679: *Selden's History of Tythes*, pag. 287. 2. par. *Inst.* fol. 491. *Constit. Rob. Dunelm.* Ep. anno 1276. in Rubr. *De rebus liberorum Decimandis & Mortuariis inde solvendis. Et in textu--- De bonis propriis sibi obstant mortuarium matri Ecclesiae solvere teneantur.*

Motbell, *Campana quae Saxonibus nostris indici solebat conventus publicus qui Folcmote dicitur*, derived from *Mot*, conventus, and *Bell*, campana. Vide *Leg. Edw. Conf.* cap. 35.

Motes-troopers, A rebellious sort of Malefactors in the furthest North of England, that live by Robbery and Spoyle, not unlike the *Tories* in Ireland, or the *Banditti* in Italy, for whose suppression, were made the Statutes 4 Jac. 1. 7 Jac. 1. and 14 Car. 2. cap. 22.

Mote, *Mota*, From the Saxon *Gemote*, *Curia*, placitum, conventus: As *Mota de Hereford*, i. *Curia vel placita Comitatus de Hereford*. In the Charter of *Maud*, the Empress Daughter of King Henry the First, we read thus, *Sciatis me fecisse Milonem de Glocest. Comitem de Hereford & dedisse ei moram Herefordiae cum toto castello, &c.* Hence *Burgemote*, *curia vel conventus Burgi*; *Swaingemot curia vel conventus ministrorum scil. Foresta, &c.* From this also we draw our word *Mote* or *Moot*, To plead. The Scots say to *Mute*, as the *Mute Hill at Scone*, i. *Mons placiti de Scona*; We commonly apply the word *Moot*, to that arguing of Cases used by young Students in the Inns of Court and Chancery. In the Charter of Peace between King Stephen and Duke Henry, afterwards King, it is taken to signifie a Fortrefis, as *Turris de London & Mota de Windsor*. The Tower of London, and Fortrefis of Windsor. *Mote* also signifies a standing Pool or Water to keep Fish in, or a great Trench of Water encompassing a Castle, or other Dwelling-house.

Muchehunt, *Habeant hi quatuor unam regalem potestatem (salva semper nobis nostra presentia) quaterq; in anno Generales Foresta demonstrationes & viridis & veneris forisfactiones quas Muchehunt dicant, &c.* Vide *Leg. de Foresta*, R. Canuti, cap.

Mulier, As it is used in the Common Law, seems to be a word corrupted, and used for *Melior*, or the French *Melieur*, and signifies the lawful Issue preferred before an elder Brother born out of Matrimony, Anno 9 H. 6. 11. *Smith de Repub. Anglorum*, lib. 3. cap. 6. But by *Glanville*, lib. 7. cap. 1. The lawful Issue seems rather *mulier* than *melior*, because it is begotten à muliere, and not à concubina; for he calls such Issue *Filios mulieratos*, opposing them to Bastards, and *Britton*, cap. 70. hath *frere mulier*, i. the Brother begotten of the Wife, opposite to *frere Bastard*. This appears to be used in Scotland also, For *Skene de verbor. Signific.*

Signific. sayes, That *Mulieratus filius* is a lawful Son begotten of a lawful Wife. A man hath a Son by a Woman before Marriage, that is, a *Bastard*, and unlawful, and after he Marries the Mother of the *Bastard*, and they have another Son; this second Son is called *Mulier*, that is to say *lawful*, and shall be Heir to his Father; but the other cannot be Heir to any man, because in Judgment of Law he is said to be *nullius filius*, or *filius populi*, according to the old Verses.

*Cui pater est populus, Pater est sibi nullus & omnis,
Cui pater est populus, non habet ipse patrem.*

And you alwayes find them distinguisht with this addition *Bastard eigne* and *Mulier puiſne*. See Co. on Lit. fol. 170. & 243.

Muliercy, The being or condition of a *Mulier* or lawful Issue, Co. on Lit. fol. 352.

Mulmutius Laws, See *Lam*.

Multa or **Multura Episcopi**, Is derived from the Latine word *Multa*; for that it was a Fine given to the King, that the Bishop might have power to make his last Will and Testament, and to have the Probate of other mens, and the granting Administrations, 2. Inf. fol. 491.

Multiplication, *Multiplicatio*, Multiplying or increasing; By a Statute made 5 H. 4. cap. 4. It is Ordained and Established, That none from henceforth shall use to multiply Gold or Silver; nor use the craft of Multiplication, and if any the same do, he shall incur the pain of Felony; And it was made upon a presumption that some persons skilful in Chymistry, could multiply or augment those Metals. And Henry the Sixth granted Letters Patent to some persons (who undertook to perform the same, and to find out the Philosophers Stone,) to free them from the penalty of the said Statute, Rot. Pat. 34. Hen. 6. m. 13. Co. 3 Inf. fol. 74.

Multitude, *Multitudo*, Must, according to some Authors, consist of ten persons, or more. But Co. on Lit. fol. 257. says, He never found it limited to any certain number, but left to the Discretion of the Judges.

A multo fortiori, Or *a minori ad maius*, Is an Argument often used by Littleton, and is framed thus. If it be so in a Feoffment passing a new Right, much more is it for the restitution of an ancient Right, &c. Co. on Lit. fol. 253. & 260.

Multure, *Molitura vel multura*, Is the Toll that the Miller takes for grinding of Corn; Et totam sequelam Customariorum meorum qui ad dictum molendinum bladum suum molent, ad sextum decimum vas & brasum suum sine multura, Mon. Ang. 2 par. fol. 825.

Mundbrech, A compound of the Saxon *Mund*, i. tutela, defensio, and *Brice*, fractio, violatio; Si Rex Ecclesiam, monasterium, burgum, hominem aliquem vel societatem, eorumve res aut pradia in suam suscepit protectionem dicebatur hoc omne & ejusmodi quicquid in Regis esse mundio (in Saxon *Mund* *Cynings munde*), cujus violatio etiam *Mundbrice* dicta est q. protectionis violatio, aut data pacis fractio quae in Anglorum lege 5. libris plectebatur, Spelman's Gloss. verbo *Mund*. Some would have *Mundbrech* to signifie an infringement of Priviledges;

others would that it denote *Montis fracturam*, because *Mund* also is *mons*. But of later time it is expounded *clausuram fractio*, for *Mund* signifies *clausuram munitio*, the fencing of Lands, therefore *Mundbrech* must be the breaking of those Fences which in many parts of England we call *Mounds*; and we say when Lands are fenced in and hedged, that they are *mounded*.

Mundeburde, *Mundeburdium*, A Saxon Compound of *Munde*, defensio, and *Bord* or *Borb*, i. fideiussor; So that *Mundeburd* sit defensionis vel Patrocinii fideiussor; from whence *Mundeburdas*, advocatus.

Muniments, *Munimenta*, Are authentick Deeds and Writings, by which a man may defend the Title to his Lands, *Episcopus cum munimentorum inspectionem habere non potuit*, &c. Mat. Paris, fol. 311. See *Munimentes*.

Muniment house, *Munimen*, In Cathedrals, Collegiate Churches, Castles, &c. is a little Room purposely made for keeping the Seal Evidences, Charters, &c. of such Church, Colledge, &c. such Evidences being called *Muniments*, from *muno*, to defend, 3 par. Inst. fol. 170. 35 H. 6. fol. 37. b.

Murage, *Muragium*, Is a Toll or Tribute to be levied, for the building or repairing of publick Walls, F. N. B. fol. 227. It is due either by Grant or Prescription, Co. 2. par. Inst. fol. 222. *Murage* seemeth also to be a liberty granted to a Town by the King, for the collecting money towards the walling of the same, Anno 3 E. 1. cap. 30.

Murder, *Murdrum*, May be derived either from the French *Meurtre*, internecio, or the Saxon *Mordren*, signifying the same thing; and according to our Law, is a wilful and felonious killing of another upon premeditated malice, whether secretly or openly, 52 H. 3. cap. 25. West Symbol. part 2. tit. Indictments, sect. 47. *Bracton*, lib. 3. tract. 2. cap. 15. num. 1. defineth it thus, *Homicidium quod nullo praesente, nullo audiente, nullo vidente clam perpetratur*. Britton, cap. 6. is of the same Opinion, so is *Fleta*, lib. 1. cap. 30. adding besides, that it was not murder, except it were proved the party slain was English, and no Forreiner: But *Stamf. pl. cor. lib. 1. cap. 2.* says, The Law in this point is altered by the Statute 14 E. 3. cap. 4. For now it is *murder*, when a man upon fore-thought malice kills another, whether privately or publicly, English-man or Foreigner living under the King's Protection. And this premeditated malice is two-fold; 1. Express, when it may be evidently proved that there was ill will. 2. Implied, when one killeth another suddenly, having nothing to defend himself, as going over a Stile, or such like, *Crompt. Justice of Peace*, cap. Of murder, fol. 19. Bro. tit. Quo warrant. 2. See *Were*.

Murengers, Are two ancient Officers in the City of Chester, being two of the principal Aldermen, yearly elected to see the Walls kept in good repair; for the maintaining whereof, they receive several Tolls and Customs.

Muster, Cometh of the French *Moustre*, i. specimen, exemplum, as *Faire moustre Generale de tout son armie*, is as much as *lustrare exercitum*. The signification is well known to *muster an Army*. So *musted of Record*, 18 H. 6. cap. 19. is to be enrolled

rolled in the number of the King's Souldiers, *Master of the King's Musters*, 2 E. 6. 2. See in *Muster*.

Muster-Master-General, Anno 35 El. cap. 4. See *Master of the King's Musters*.

Mute, *Mutus*, Speechless, or that refuses to speak; A Prisoner may stand *mute* two manner of wayes, 1. When he stands *mute*, without speaking of anything, and then it shall be enquired whether he stood *mute* of Malice, or by the act of God; and if it be found that it was by the act of God, then the Judge of the Court *ex officio* ought to inquire whether he be the same Person, and of all other Pleas, which he might have pleaded, if he had not stood *mute*. 2. When he pleads, Not Guilty, or doth not answer directly, or will not put himself upon the Enquest, to be tryed by God and the Country, Co. 2. par. Inst. cap. 12. 32 H. 8. 3. See *Paine fort et dure*. *Mute* also signifies a Kennel, or cry of Hounds, as *Bailler la mente & rovi à un Cerse*, to follow after him with a full cry, *Spelman*.

Myfterium, Vide *Mysterium*.

N.

Nam, *Namium*, From the Saxon *Name*, *capitū*, signifies the taking another mans moveable Goods, and is either lawful or unlawful; *Lawful Nam* is a reasonable Distress, proportionable to the value of the thing distrained for; and this *Nam* was anciently called either *vis*, or *mort*, quick or dead, according as it is made of dead or living Chattels: *Lawful Nam* is so, either by the Common Law, or by a mans particular Fact: By the Common Law, as when one taketh another mans Beasts Damage feasant in his Ground. By a mans particular Fact, as by reason of some Contract made, that for default of payment of an Annuity agreed upon, it shall be lawful to distrain in such and such Lands, &c. *Horne's Mirror of Justice*, lib. 2. cap. De *Nam*. See *Withernam*. From hence comes *Namatio*, the taking or impounding. *Namatus* distrained, see *Signe de Verb. Signif. verbo Namare*. In the Laws of *Canutus*, M. S. cap. 18. we read *Et nemo Namium capiat in Comitatu vel extra Comitatum, priusquam ter in Hundredo suo restum sibi perquisierit*. And in the Charter of Henry the First, of the Liberties of London, *Quod si reddere noluerint (debitores) nec ad distracionandum venire; tunc ciues quibus debita sua debent, capiant in civitate Namia sua vel de Comitatu in quo manet qui debitum debet*. and in Mon. Angl. 2. par. fol. 256. *Non licet Namium sumere vel vadimonium nec averia sua imparchiare*, *Spelm. Gloss. verbo Namium*.

Nabulum, *Merces nautica*, *Spelman*.

Nasse, Seems to be the proper name of *Orford Haven*, 4 H. 7. 22.

Nathwayte, — *Quod nec dictus Philip- pus de Avery nec heredes sui de cetero petere possint aliqua tallagia nec etiam Francum plegium nec etiam aliam demandam que vocatur Nathwite: Charta 55 H. 3. m. 6.*

Nativity, *Nativitas*, Birth; casting the *Nativity*, or by Calculation, seeking to know

how long the Queen should live, &c. made *Felony*; 23 Eliz. 2. *Nativitas* was anciently taken for *Bandage* or *Villanage*, *Terram quam nativi sui tenuerunt de se in nativitate*, Mon. Ang. 2. par. fol. 643.

Nativo habendo, Was a Writ that lay to the Sheriff for a Lord, whose Villain claimed for his Inheritance, run from him, for the apprehending and restoring him to his Lord again, *Reg. Orig. fol. 87. P. N. B. fol. 77.* See the Charter of Richard the Second, by which he manumitted all in the County of Hertford, *Walsingham*, pag. 254.

Nativus, He that is born a Servant, and so differs from him that suffers himself to be sold; of which Servants there are three sorts, *Bondmen*, *Natives* and *Villeins*; *Bondmen* were those who bound themselves by Covenants to serve, and took their name from the word *Bond*. *Natives*, we spoke of just before; And *Villeins* were such who belonging to the Land, till the Lords Demesnes, nor may depart thence without the Lords Licence, *Spelman's Gloss.* — *Quod si aliquis Nativus alienus in praefate Burgo manserit & terram in eo tenuerit & fuerit in praedicta Gilda & Hanse & Loth & Scoth cum eisdem Burgensibus nostris per annum unum & unum diem sine calumpnia, deinceps non possit repeti à Domino suo, ut in eodem Burgo liber permaneat, Carta, Hen. 3. Burgensibus Manumery.*

Native tenentes, Same (ipsi etiam liberi) qui terram tenent *Nativam*, hoc est, *nativorum servitium obnoxiam*, *Spelman*.

Naturalization, *Naturalizatio*, Is when an Alien born, is made the King's natural Subject. See *Denizen*. And this saith *Spelman*, *Regio diplomate & Senatus-consulio expectandum est. Potest autem virtute Regii Diplomatis denizationem, hoc est, Municipium consequi, quo pradia compareret, possidem, disponat, muniat; omnia subeat uti naturalis indigena; hereditarie tamen nil adeat simplici hoc nomine: Sed naturalizationis pallio indutus omnem adipiscitur plenitudinem.*

Se admittas, Is a Writ that lyeth for the Plaintiff in a *Quare Impedit*, or him that hath an Action of *Darrein Presentment* depending in the Common-Bench, and feareth that the Bishop will admit the Clerk of the Defendant, during the Suit between them; which Writ must be sued within six Months after the avoidance, because after six Months the Bishop may present by *Lapse*, *Reg. Orig. fol. 31. F. N. B. fol. 37.*

Neatland, *Terra Villanorum*, Land let or granted out to the Yeomanry, *Ex vet. Charta.*

Negative pregnant, *Negativa pragnans*, Is a negative implying also an affirmative: As if a man being impleaded to have done a thing on such a day, or in such a place, denyeth that he did it *modo & forma declarata*, which implyeth nevertheless, that in some sort he did it; Or if a man be said to have aliened Land in Fee, and he saith he hath not aliened in Fee, this is a *negative, pregnant*; for though it be true that he hath not aliened in fee, yet it may be, he hath made an Estate in tail, *Dyer, fol. 17. num. 95.* And *Brook* hoc titulo, and *Kitchin, fol. 232.* and the *Termes of the Law*. We read also in some Civilians of *Affirmativa pragnans*, and that is, *que habet in se inclusivam negativam & hoc importare videntur distinctiones (solum & tantum) qua implicant negativam.*

Pacianus

Patrons de probationibus, lib. 1. cap. 31. num. 16. fol. 93.

Neife, Naisa, From the French *Naif*, *nativally*, Is a Bond-woman, Anno 1 E. 6. 3. and 9 R. 2. cap. 2. But if she marry a Free-man, she is thereby made free; and if she be once free, and clearly discharged of all Bondage, she cannot be *Neif* after, without some special act done by her, as Divorce, or Confession in Court of Record; and that is in favour of liberty, and therefore a free Woman shall not be bound by taking a Villain to her Husband; but their Issue shall be Villains as their Father was, which is contrary to the Civil Law, which sayes, *Partus sequitur ventrem*. See *Manumissum*.

Writ of Neif, Was a Writ whereby the Lord claimed such a Woman for his *Neif*, wherein but two *Neifs* could be put; but it is now quite out of use.

Neophyte, A Learner in any thing, *Tyro*; we call such a one a *Novice*.

Ne intusce beyes, Is a Writ which lies for a Tenant that is distrained by his Lord, for other Services than he ought to make, and is a prohibition to the Lord in it self, commanding him not to distrain: The special use of it is, where the Tenant hath formerly prejudiced himself, by performing more Services, or paying more Rent, without constraint, than he needed; for in this Case, by reason of the Lords Seisin, he cannot avoid him in *Auery*, and therefore is driven to this Writ as his next remedy, *Reg. Orig. fol. 4. F. N. B. fol. 10.*

Neife. See *Nasse*.

No vice-comes colore mandati Regis quonquam amovet a possessione Ecclesia minus iuste, *Regist. Orig. fol. 61.*

Niderling, alias *Nidering*, alias *Nithing*, *Gulias*, *Adalmes*, pag. 121. In the life of *William Rufus*, hath these words, *Anglos suos appellat (Rex) et inbet ut compatriotas advenent ad obsidionem venire, nisi si qui velint sub nomine niderling quod nequam sonat remanere; Angli qui nihil infirmitas putarent quam buisus vocabatur deducere ad urbem, catervatim ad Regem conflant et invincibilem exercitum faciunt.* And *Mat. Paris* in Anno 1088. pag. 14. *ut ad obsidionem veniant jubet, nisi velint sub nomine Nothing quod Latine nequius sonat recitari, &c.*

Nient compisse, Is an exception taken to a Petition as unjust, because the thing desired is not contained in that Act or Deed whereon the Petition is grounded. For example, One desired of the Court to be put into possession of a House, formerly among other Lands, &c. adjudged unto him: The adverse party pleadeth, That this Petition is not to be granted, because though he had a Judgment for certain Lands and Houses, yet the House, into the possession whereof he desired to be put, is not contained among those for which he had Judgment. See the *New Book of Entries*, *titulo Nient compisse*.

Nisse, Anno 3 E. 4. cap. 5. The word is mentioned, and seems to signify a thing of little value; It may be a corruption of *nihil*, but neither *Camell* nor *Speelman* have given it any interpretation.

Nihil or *Nithil*, Is a word which the

Sheriff answers, that is apposed concerning Debts illeivable, and that are nothing worth, by reason of the insufficiency of the Parties from whom they are due; 5 R. 2. Stat. 1. cap. 3. and 27 Eliz. cap. 3. *Accounts of Nihil shall be put out of the Exchequer*, 5 R. 2. Stat. 2. cap. 13.

Nihil dicit, Is a saying to put in Answer to the Plea of the Plaintiff by the day assigned, which if a man omit, Judgment passeth against of course by *nihil dicit*, that is, because he sayes nothing in his own defence, why it should not.

Nihil capiat per Breve, Is the Judgment given against the Plaintiff, either in bar of his Action, or in abatement of his Writ, *Co. on Lit. fol. 363.*

Nihil capiat per billam, See *Nihil capiat per breve*.

Nisi prius, Is a Writ judicial, which lyeth in case where the Jury is impannell'd, and returned before the Justices, the one Parly or the other requesting to have this Writ for the ease of the Country, whereby the Sheriff is willed to cause the Enquest to come before the Justices in the same County at their coming. See 14 E. 3. cap. 15. The form of the Writ you have in the *Old Nat. Brov. fol. 139.* and in the *Register Judicial, fol. 7. & 28. & 75.* *New Book of Entries, verbo Nisi Prius.* And it is called a Writ of *Nisi Prius*, of these words, whereby the Sheriff is commanded to bring to Westminster the men impannelled at a certain day, or before the Justices of the next Assises, *Nisi die Luna quod talem locum prius venerint, &c.* And the Justices of *Nisi Prius* must be one of them before whom the Cause is depending in the Bench, *F. N. B. fol. 240.* which he taketh from the *Statute of York*, Anno 12 E. 2. See *Westm. 2. cap. 30. 19 E. 1. and 27 E. 1. cap. 4. 2 E. 3. cap. 17. & 4 E. 3. cap. 11. & 14 E. 3. cap. 16. 7 R. 2. cap. 7. and 18 Eliz. cap. 12.*

Riger Liber, Is the *Black-Book* in the Exchequer so called.

Nobilis, A Noble, an ancient kind of English-money now not in use; the value thereof, in the thirty fourth year of *Edward the Third*, being 1360. appears in the Letters of *John King of France*, upon the Treaty of Peace between the same two Kings, where Art. 13. you have these words, *Item accorde est, que le Roy de France payera au Roy d'Angleterre trois millions d'escus d'or, dont les deux valent un noble de la monney d'Angleterre.* We at this day value a noble at six shillings eight pence, but have no peculiar Coin of that name.

Nobilitas, Nobility compriseth all degrees of Dignity above a Knight, so that a Baron is the lowest Order thereof, *Smith de Repub. Ang. lib. 1. cap. 17.* *Bartolus* in his *Traict de Nobilitate*, lib. 12. defines it thus, *Nobilitas est qualitas illata, &c.*

Noctes & noctem de firma, We often meet in *Doomsday* with *Tot noctes de firma*, vel *firma tot noctium*, which is to be understood of entertainment for so many nights. See *Doomsday, tit. Essex.* *Rex Hundred de Chemesford writulam tunc reddit hoc manerium decem noctes de firma & 10. lib. &c.* Our Ancestors, the English Saxons, were accustomed to reckon their times by the Nights, which Custom we still retain, when we

lay for a single Week, a **Nenight**, quasi *seven-night*, that is, *septem noctes*; and so for two weeks, a **Fortnight**, quasi *fourteen-nights*, (i.) *quatuordecim noctes*.

Documentum. See *Nufance*.

Nodfyr alias **Nedfri**, Was a word well known among the Saxons to signifie necessary Fire, being derived from the Saxon *Ned*, that is, necessary and *fyr*, *ignis*: But the learned *Spelman* is of opinion from the old Saxon *Nood*, (i.) *obsequium*; so that *Nodfyr* were Fires made in honour of the Heathenish Deities. Vide *Proemium Eadgeri Regis de Canobitis Regularibus introducendis*, &c.

Nomenclator, One that enucleates and opens the Etymologies of Names. *Spelman* verbo *Nomenclator*, interprets it to be *Thesaurarius*.

Nomination, *Nominatio*, Is used as well by the Canonists as Common-Lawyers, and taken for a Power, that a man by vertue of a Mannor, or otherwise, hath to appoint a Clerk to a Patron of a Benefice, by him to be presented to the Ordinary.

Nona, *Nonæ*, According to the Romans Account were those dayes which at the beginning of some Months had six, of others had four dayes, according to the Verses,

Sex Nonas Maius, October, Julius & Mars,

Quatuor at reliqui, &c.

Spelman in his *Glossary* interprets it for *Meridies*, Mid-day, Dinner-time, which we in English call *Noon* and *Noontide*, which is as much as if we should say in Latine *Hora nonam*, id est, *Pomeridianam tertiam*, *non meridiam*, and as he infers, *Ratio à Romanorum cana ducta est, quæ hora sexti nona est, nec solenniter ante comedebant*.

Nonability, Is an exception taken against the Plaintiff or Defendant, upon some cause why he cannot commence Suit in Law, as *Premunire*, *Outlawry*, *Profess* in Religion, *Excommunicate*, or a *Stranger born*, which last holds only in Actions real and mixt, and not in personal, except he be a Stranger and an Enemy. The *Civilians* say, That such a man hath not *Personam standi in iudicio*. See *Bro. boc titulo*, and *F.N.B. fol. 35. 65. & 77*.

Non admittas. See *Ne admittas*.

Nonage, Is all that time of a mans age, under one and twenty years in some Cases, and fourteen in others, as *Marriage*. See *Broke*, tit. *Age*. Vide *Age*.

Non capiendo Clericum. See *Clericum non capiendo*.

Nonclame, Is the omission, or neglect, of him that ought to challenge his Right within a time limited, by which neglect he is either barred of his Right, as at this day upon *Nonclame* within five years after a Fine, and Right to him accrued, by the Statute of 4 H. 7. 24. Or of his Entry by his descent, for want of *Clame*, within five years after the *Disseisin*, made by the Stat. 32 H. 8. 33. Vide *Co. lib. 4. in Proem. and Continual Claim*.

Non compos mentis, That is, not of sound memory or understanding, which are four-fold, 1. An *Ideot à Nativitate*, is *non compos*

mentis. 2. He that by accident afterwards wholly loseth his memory and understanding. 3. A *Lunatick*, that hath *Lucida intervalla*; sometimes his understanding, and sometimes not. 4. He that by his own act for a time depriveth himself of his right mind, as a Drunkard; but this last kind shall give no privileged to him or his Heirs. See *Co. lib. 4. fol. 124. Beverly's Case*.

Non distringendo, Is a Writ comprising under it divers particulars, according to divers Cases, which see in the Table of *Reg. Orig. verb. Non distringendo*.

Non est Culpabilis, Is the general Plea to an Action of Trespass, whereby the Defendant doth absolutely deny the Fact imputed to him by the Plaintiff, whereas in other special Cases the Defendant but alledgeth some reason in his own defence: And therefore when the Rhetoricians comprise the substance of their Discourses under three Questions, *An sit, quid sit, quale sit*. This Answer falleth under the first of the three, and as it is the general answer in an Action of Trespass, that is, an Action criminal civilly prosecuted; so is it also in all Actions criminally followed, either at the Suit of the King, or other, wherein the Defendant denyeth the Crime objected unto him. See the *New Book of Entries*, tit. *Non culpabilis*, and *Stamf. Pl. Cor. lib. 2. cap. 62*.

Non est factum, Is an Answer to a Declaration, whereby a man denyeth that to be his Deed, whereupon he is impleaded, *Bro. boc tit.*

Non implacitando aliquem de libero tenemento sine brevi, Is a Writ to inhibit Bayliffs, &c. from distraining any man without the King's Writ touching his Free-hold, *Register*, fol. 171.

Non intromittendo, quando brebe de Precepto in Capite subdole impetratur, Is a Writ directed to the Justices of the Bench, or in Ey, willing them not to give one that hath under colour of intituling the King to Land, &c. as holding of him in *Capite*, deceitfully obtained the Writ called *Precepto in Capite*, but to put him to this Writ of Right, if he think good to use it, *Reg. Orig. fol. 4. b.*

Non Mercandirando Victualia, Is a Writ directed to the Justices of Assise, commanding them to inquire whether the Officers of such a Town do sell Victuals in gross, or by retail, during their Office, contrary to the Statute, and to punish them if they find it true, *Register of Writs*, fol. 184.

Non molestando, Is a Writ that lyeth for him which is molested contrary to the King's Protection granted him, *Register of Writs*, fol. 24.

Non obstante, (Which signifies *Notwithstanding*,) Is a Clause frequent in Statutes and Letters Patent. All Grants of such Persons, and every non obstante therein contained shall be void, 14 Car. 2. cap. 11. *Croke's Rep. 3. par. fol. 196. and Plowd. Com. fol. 501, 502*. In the Reign of King Henry the Third, (says Sir Richard Baker.) The Clause *non obstante* (first brought in by the Pope) was taken up by the King in his Grants and Writings. See *Prynne's Animadversions* on 4. *Infl.* fol. 129.

Non omitt. propr. aliquam libertat. Is a Writ that lies where the Sheriff returns upon a Writ to him directed, that he hath sent to the Bayliff of such a Franchise which hath the return of Writs, and he hath not served the Writ, then the Plaintiff shall have this Writ directed to the Sheriff to enter into the Franchise, and execute the King's Process himself, *Old Nat. Brev. fol. 44.* Of this the Register Original hath three sorts, *fol. 82. & 151.* and the Register Judicial one, *fol. 5. & 56.* Also the Sheriff shall warn the Bayliff, That he be before the Justices at the Day contained in the Writ, and if he come not, then all the Judicial Writs during the same Plea issuing, shall be Writs of *non omittas*, and the Sheriff shall execute the same. See *Termes de la Lay, hoc tit.*

Non Ponendis in Assis & Juratis. Is a Writ founded upon the Statute of *Westm. 2. cap. 38.* and *Articuli super Chartas, cap. 9.* which is granted upon divers Causes to Men, for the freeing them from Assises and Jurors. See *F. N. B. fol. 165.* and the Register, *fol. 100. 119, 181, 183.*

Non Procedendo ad Assisam Rege inconsulto. Is a Writ to stop the Tryal of a Cause appertaining unto one that is in the King's Service, &c. until the King's Pleasure be farther known, Register, *fol. 220.*

Non residentia pro Clericis Regis. Is a Writ directed to the Ordinary, charging him not to molest a Clerk employed in the King's Service, by reason of his non-residence, *Reg. Orig. fol. 58.*

Non Residence. 28 H. 8. 13. Is applied to such spiritual Persons as are not resident, but do absent themselves for the space of one or two Months at several times in one Year from their Benefices; for *Personal residence* is required of Ecclesiastical Persons upon their Cures. See 2. *par. Inst. fol. 625.*

Non solvendo pecuniam ad quam Clericus mulctatur pro non residentia. Is a Writ prohibiting an Ordinary to take a pecuniary mulct imposed upon a Clerk of the King for non Residence, *Reg. Orig. fol. 59.*

Non suite. Is a renouncing of the Suit by the Plaintiff or Demandant, most commonly upon the discovery of some Error or Defect, when the matter is so far proceeded in, as the Jury is ready at the Bar to deliver their Verdict, 2 H. 4. 7. See the *New Book of Entries, verbo Non suit.* The Civilians term it *Litis renunciationem*, See 23 H. 8. *cap. 15. 8 Eliz. cap. 2.* and 4 *Jac. cap. 3.* whereby he that is non suit shall pay Costs to the Defendant.

Non sum informatus. See *Informatus non sum.*

Non sane memozy. *Non sana memoria*, Is an exception taken to an Act declared by the Plaintiff or Demandant, to be done by another, whereupon he grounds his Plaint or Demand: And the effect of it is, that the Party that did that Act was mad, or not well in his Wits when he did it. See the *New Book of Entries, titulo Non sana memoria & dum non fuit compos mentis.* See also before *Non compos mentis.*

Non tenure. Is an exception to a Count, by

saying, That he holdeth not the Land specified in the Count, or at least some part of it; 25. E. 3. Stat. 4. cap. 16. *West Symbol. part 2. tit. Fines, sect. 138.* makes mention of *non tenure general*, and *non tenure special.* See the *New Book of Entries verbo Non tenure*, where 'tis said, That *special non tenure* is an exception, alledging that he was not Tenant the day when the Writ was purchased. *Non tenure general*, is when one denies himself ever to have been Tenant to the Land in question.

Non terme. *Non terminus*, Is the time of Vacation between Term and Term: It was wont to be called the time or Dayes of the King's Peace, *Lamb. Archæionom. fol. 126.* and that these were in the time of King Edward the Confessor, see there. This time, by the Romans, was called *justitium* or *Feria*, or *dies nefasti*; *Feria appellari notum est tempus illud, quod forensibus negotiis & jure dicendo vacabat; Eorum autem alie solennes erant, alie repentine, Brisson. de verb. Signif. lib. 6. Wesenbec. paratit. de feriis, num. 6.*

Rooke of Land. *Noka terra.* *universis pateat quod ego J. que sui uxor W. B. tradidi, &c. H. A. unum mess. & unam Nokam terra cum pertin. in villa de M. Dat. apud Sodynton, 5 E. 3.*

Northroy. As much to say as *Northroy*, that is, the Northern King: The third of the three Kings at Arms, and his Office, lies on the North-side of Trent, as *Clarentius* on the South: He is mentioned in the Statute 14 *Car. 2. cap. 33.* See *Herald.*

Notary. *Notarius*, Mentioned 27 E. 3. 1. Is a Scribe, or Scrivener, that makes short draughts of Writings and other Instruments. At this day we call him a *Notary*, or *Publick Notary*, that attests Deeds or Writings to make them authentick in another Country, but principally in business relating to Merchants.

Note of a Fine. *Nota finis*, Is a brief of a Fine made by the Chirographer, before it be ingrossed; the form whereof see in *West Symbol. part 2. tit. Fines, sect. 117.*

Not Guilty. See *Non est Culpabilis.*

Novale. Seems to be Land newly plowed, that without memory of man had not been tilled. *Item nota quod Novale est ager nunc primam præsibus & quod Novale semel fuit, semper erit Novale, quo ad decimarum retentionem vel solutionem. Ex cartulario Abbatissæ de Furnesse in Com. Lanc. in Officio Ducat. Lanc. fol. 41. b.*

Novel Assignment. *Nova assignatio*, Is an assignment of Time, Place, or such like, otherwise than as it was before assigned, *Bro. tit. Deputy, num. 12.* See *Novel assignment of Trespas* in a new place, after Bar pleaded, *Bro. tit. Trespas 122.* and *Novel assignment* in a Writ of *ejectione custodiæ*, *tit. Ejectione custodiæ, num. 7.* See *Assignment.*

Noyles. No person shall put any Noyles, Flocks, Thrums, Hair, or other deceivable thing into any broad Wollen Cloth, &c. 22. *Jac. 18.*

Nude Contract. *Nudum Pactum*, Is a bare promise of a thing, without any consideration; and therefore we say, *Ex nudo pacto non oritur actio.*

Nude Matter. See *Matter.*

Nummata terræ. Is the same with *Denariatus terræ*, and thought to contain an Acre, *Sciatis me A a a (se.)*

(*fr. Will. Longespee*) *dedisse & concessisse Ecclesie S. Mariæ de Walsingham et Canonicis ibidem Deo Servientibus in perpetuum Eleemosynam 40. Nummatus terræ in Walsingham, quæ fuit Archetel & Brinig fratris ejus de socca Wibetune, libere, quiete & honorifice absque omni servitio & omni consuetudine. Spelman.*

Puncupative Will. See *Will.*

Punne, *Nonna*, Signifies a holy or consecrated Virgin, or a Woman that hath by Vow bound her self to a single and chaste Life in some Place and Company of other Women, separated from the World, and devoted to an especial Service of God by Prayer, Fasting, and such like holy Exercises. *St. Hierome* tells us, This is an *Egyptian Word*, as *Hospinian* recordeth of him in the Book *De Origine & Progressu Monachatus*, fol. 2.

Puncius, We may call him an *Apparitor*, *Sergeant*, or *Beadle*.

Super obit, Is a Writ that lies for a Coheir, being deforced by her Co-parcener of Lands or Tenements, of which the Grand-Father, Father, Uncle or Brother to them both, or any other their common Ancestor, died seised of an Estate in Fee-simple. See the Form of the Writ, *Reg. Orig. fol. 226. &c.* and *Fitzh Nat. Brev. fol. 197.* But if the Ancestor died seised in fee tayl, then the Co-Heir deforced shall have a *Formedon*, *ibid.* But where the Ancestor was once seised, and died not seised of the Possession, but in Reversion; in such case a Writ of *Rationabili parte* lies for the Party.

Nusance, (*Nocumentum*), Cometh of the French *Nuire*, i. *Nocere*, and signifies not only a thing done whereby another Man is annoyed in his free Lands or Tenements, but the Affise or Writ lying for the same; *Fitz. Nat. Brev. fol. 183.* And this Writ de *Nocumento*, or of *Nusance*, is either simply de *Nocumento*, or de *parvo nocumento*, and then it is *Vicountiel*, *Old Nat. Brev. fol. 108. 109. F. N. B. fol. 183. 184.* *Britton* calls it *Nusance*, whom read *cap. 61. 62.* *Mamwood* in his *Forest Laws*, *cap. 17.* makes three sorts of *Nusance* in the Forest: The first is, *Nocumentum commune*. The second, *Nocumentum speciale*. The third, *Nocumentum generale*, which you may read there, (for I will not insist upon the distinction.) See *Reg. Orig. fol. 197. & 199. Co. Rep. Williams Case.* In stead of this, now generally are brought Actions of *Trespas*, and upon the Case.

Putmegge, *Nuces muscate*, Is a Spice well known to all, described in *Gerards Herbal*, lib. 3. *cap. 145.* and mentioned among Spices that are to be garbled, 1 *Jac. 19.*

O.

O Ni. In the Exchequer, as soon as a Sheriff enters into his Accounts, for Issues, Amerciaments, and mean Profits, they set upon his Head this mark O Ni. which denotes *Oneratur, nisi habet sufficientem exonerationem*, and thereupon he forthwith becomes the King's Debtor, and a *Debet* set upon his Head, and then the Parties *Peravayle*, become Debtors to the Sheriff and discharged against the King, *Co. 4. Inst. fol. 116.*

Dale Gavel. See *Gavel-fester.*

Date Gavel. See *Gavel.*

Oath, *Juramentum*, Is an Affirmation, or denial by any Christian of any thing lawful and honest before one or more that have Authority to give the same, for the advancement of Truth and Right, calling Almighty God to Witness, that his Testimony is true: It is called a *Corporal Oath*, because he toucheth with his Hand some part of the Holy Scripture, *Co. 3. par. Inst. cap. 74.* The Law esteems it the best means to search out the Truth, by the Oaths of honest, lawful, and indifferent Persons; and therefore it is fitly termed *Sacramentum*, an holy Band, or sacred Tye, or godly Vow. Some do call it *Firmamentum veritatis*, the foundation and ground of Truth; Others *Vinculum pacis*, and if it be taken and found by a whole Jury, it is called *Verdictum*, a *Verdict*. *Pulton de Pace Regis & Regni.* See the Book of Oaths, lately set out and Printed.

Obedientia, Was a Rent, as appears out of *Roger Hoveden*, *parte poster. annal. suor. pag. 430.* in these words, *Ut ergo eis (fr. regularibus) adimatur opportunitas evagandi, prohibemus, ne redditus quod Obedientias vocant ad firmam teneant, &c.* In the Common-Law it is used for an Office, or administration of an Office; and thereupon the word *Obedientiales* is used in the Provincial Constitutions, for those which have the execution of any Office under their Superiors, *cap. prim. de Statu regule.* For thus saith *Linwood* in his gloss upon that Word, *Hi sunt qui sub Obedientia suorum Prelatorum sunt et habent certa Officia administranda interius vel exterius.* It may be that some of these Offices call'd *Obedientia*, consisted in the collection of Rents or Pensions, and that therefore those Rents were by a Metonymie, call'd *Obedientia quia colligebantur ab Obedientialibus.*

Obit, A latine Word signifying a Funeral Solemnity, or an Office for the Dead, most commonly performed at the Funeral, when the Corps lye in the Church uninterred: Also the Anniversary Office, *Cro. 2. par. fol. 51. Holloway's Case.* It was held 14 *Eliz. Dyer 313.* That the tenure of *Obit* or *Chantry* Lands held of Subjects, is extinct by the Act of 1 *E. 6. 14.* See 15 *Car. 2. cap. 9.*

Oblata, Properly Offerings: But in the Exchequer it signifies old Debts, brought together from precedent Years, and put to the present Sheriffs Charge. See the *Præfice of the Exchequer*, *pag. 78.* Also Gift made to the King by any of his Subjects, which were so carefully taken notice of in the Reigns of King John and Henry the Third, that they were entered in the fine Rolls under the Title *Oblata*; concerning which see Mr. *Philips* his Book of the Antiquity and Legality of Royal Purveyance, *Spelman's Glossary*, and *Prynnes Aurum Regine.*

Oblations, *oblaciones*, Are thus defined in the Canon Law, *Oblaciones dicuntur, quæcunque a pia fidelibusque Christianis offeruntur Deo & Ecclesie sive res soli sive mobiles sint; nec refert an tegentur testamento, an aliter donentur, cap. Clerici 13. quæst. 2.* Read more thereof in *Duarenus de sacr. Eccl. Minister. at. benef. cap. tertio*, 12 *Car. 2. cap. 11.*

Obligation, *obligatio*, Is a Bond containing a Penalty, with a Condition annext, either for payment

payment of Money, performance of Covenants, or the like, and so differs from a Bill that hath no Penalty nor Condition; and yet a Bill may be Obligatory. See *Co. on Lit. fol. 172.* and *West Symbol. part 1. lib. 2. sect. 146.*

Obligor, Is he that enters into such an Obligation, and Obligee the Person to whom it is entred into. In the Saxons Time, Writings were made firm with Golden Crosses, but the Normans put to them a Seal of Wax, and the testimony of three or four Witnesses.

Obolata terra, In the Opinion of some contains half an Acre of Land, Others but half a Perch. *Thomasius* says, *Obolum terra* is ten foot in length, and five in breadth. See *Fardingdele*, and *Spelman's Glossary* more at large upon this Word.

Obventions, *Obventiones*, Offerings, 2. *Inst. fol. 661.* Also Rents or Revenues properly of Spiritual Livings, 12 *Car. 2. cap. 11.*

Occasio, Is, according to *Spelman*, taken for an Impediment in the Charter of Liberties of Henry the First, We have these Words, *Quorum Regnum oppressum erat injustis occasionibus & exactionibus*, and in *Chart. Forest.* cap. 12. *unusquisque liber homo de catero sine occasione faciat in bosco suo vel in terra sua — molendina, vivaria, &c.*

Occationes, (in some Authors corruptly written *Occasiones*) are *Assarts*, whereof *Manwood* speaks at large; The word is derived *ab Occando*, i. e. Harrowing or breaking Clods: See *Spelman's Glossary*, verbo *Effartum*.

Occupant, If Tenant *pur terme de auter vie* dies, living *Cestuy que vie*; he that first enters shall hold the Land, during that other Man's Life, and he is in Law call'd an *Occupant*, because his Title is by his first occupation; and so if Tenant for his own Life, grant over his Estate to another, if the Grantee dies, there shall be an *Occupant*, *Co. on Lit. cap. 6. sect. 56.* and *Vulfreds Rep. 2. par. fol. 11, 12.*

Occupation, *Occupatio*, Signifies the putting a Man out of his Free-hold in time of War, and is all one with *Disseisin* in time of Peace, saving that it is not so dangerous. *Co. on Lit. fol. 249.* Also use or tenure, so we say such Land is in the Tenure or Occupation of such a man, that is, in his possession. See *Terre-Tenant*. Also Trade or Occupation, 12 *Car. 2. cap. 18.* But *occupationes*, in the *Stat. de bigamis*, cap. 4. are taken for Usurpations upon the King, and is when one Usurps upon the King, by using Liberties which he ought not. And as an unjust Entry upon the King into Lands or Tenements is an *Intrusion*, so an unlawful using of Franchises is a *Usurpation*. See 2. *Inst. fol. 270.*

Occupavit, Is a Writ that lyeth for him which is ejected out of his Land or Tenement in times of War, as a Writ of *Novel Disseisin* lies for one ejected in time of Peace, *Ingham*, *sect.* *Brief de Novel Disseisin*.

Octave, *Octava*, The eighth day following some peculiar Feasts. See *vi.*

Octo tales. See *Tales*. See *Bro. tit. Octo tales*.

Obio & atia, Is an old Writ mentioned in the Statute of *Westm. 1.* made 3 *E. 1. cap. 11.* And it was directed to the Sheriff, to inquire whether a Man committed to Prison upon Suspicion of

Murder, be committed upon just Cause of suspicion, nor onely upon Malice, *Register, fol. 133. Bracton, lib. 3. part. 2. cap. 20.* And if upon inquisition it were found, That he was not Guilty, then there came another Writ to the Sheriff to bail him. But now that course is taken away by the Statute of 28 *E. 3. cap. 9.* as appears in *Stamford, Pl. Cor. fol. 77.* and *Co. lib. 9. fol. 56.* and *Spelman verbo Atia*.

Office, Officium, Doth signifie not only that Function, by vertue whereof a Man hath some Employment in the Affairs of another, as of the King, or of another common Person; but also an Inquisition made to the King's Use of any thing by vertue of his Office who inquireth. And therefore we oftentimes read of an Office found, which is nothing else but such a thing found by Inquisition made *ex Officio*. And in this Sense it is used, 33 *H. 8. 20.* and in *Stamf. Praerog. fol. 6, 61.* where to traverse an Office, is to traverse the Inquisition taken of Office, and in *Kitchin, fol. 177.* To return an Office, is to return that which is found by vertue of the Office. See also the *New book of Entries*, tit. *Office pur le Roy*, and this is by a Metonymie of the Effect. And there be two sorts of Offices in this signification issuing out of the Exchequer by Commission, viz. An Office to intitle the King to the thing inquired of, and an Office of Instruction, for which see *Co. 6. Rep. fol. 52. Pages Case.* Office in fee is that which a Man hath to himself and his Heirs, 13 *E. 1. cap. 25. Kitch. fol. 152.* See *Clerk*.

Oferhyrnelle and Ober herneffa, In the Council holden at Winchester, in the Time of Archbishop Lanfranc, Anno 1076. we read, *Si autem post excommunicationem & satisfactionem venerint forsallitram suam quae Anglice vocatur Oferhyrnelle seu Cahllite pro unaquaque vocatione Episcopo suo reddant.* See *Gloss. in 10. Scripter. verbo Overberneffa*.

Official, Officialis, Is a Word very diversly used; for sundry Civilians of other Countries, that write in these Dayes, apply it to such as have the sway of Temporal Justice, *Egidius Bossus in praet. crim. tit. De Officialibus corruptis, &c.* But by the ancient Civil Law it signifies him that is the Minister or Apparitor of a Magistrate or Judge, *lib. 1. sect. si quis ultro.* In the Canon Law, it is especially taken for him to whom any Bishop doth generally commit the Charge of his Spiritual Jurisdiction, and in this Sense one in every Diocess is *Officialis Principalis*, whom the Statutes and Laws of this Kingdom call *Chancellor*, 32 *H. 8. 15.* The rest, if they be more, are by the Canon Law called *Officiales Foranei*, *Gloss. in Clem. 2. de Rescriptis*, but with us termed *Commissaries, Commissarii*, or sometimes *Commissarii Foranei*. The difference of these two Powers you may read in *Linwood*, tit. *De sequestra possess.* cap. 1. verbo *Officialis*. But this Word *Official* in our Statutes and Common-Law, signifies him whom the Arch Deacon substituteth in the executing of his Jurisdiction, as appears by the said Statute.

Officiarius non faciendis vel amobendis, Is a Writ directed to the Magistrates of a Corporation, willing them not to make such a Man an Officer, and to put him out of the Office he hath; until Inquiry be made of his Manners, according to an Inquisition

Inquisition formerly Ordained, *Reg. Orig. fol. 126.*

Ofgang-fordell, *Spelman* thinks it should rather be read *Ofgang* for *Ordal*, i. *transitus ad ordalium*. *Eantq; (rei) ad triplicem iudicium quod Angli Ofgangfordell Vocant. Constit. Canuti Reg. de Foresta, cap. 11.*

Oleron Laws, Are so called, because made when King Richard the First was there, and have respect to Maritime Affairs, *Co. on Lit. fol. 260.* This Oleron is an Island in the Bay of Aquitaine, at the mouth of the River Charent, now belonging to the French King. See *Seldens Mare clausum*, fol. 222. & 254. and *Prynnes Animadversions* on *Co. 4. Inst. fol. 126.*

Olympiad, *Olympias*, The space of five years: *Ethelred*, King of the English Saxons, reckon'd his Reign by *Olympiads*, as appears by a certain Charter of his, having these Words, *Consentens (inquit) signo sancte Crucis subscripti in Olympiade 4. Regni mei.* And this, by Contemporary Writers, seems to have been the sixteenth Year of his Reign, and the Year of our Lord, 994. or thereabouts, *Spelman.*

Ouerando pro rata portionis, Is a Writ that lies for a Joynt-Tenant, or Tenant in Common, that is distrained for more Rent than his proportion of the Land cometh to, *Reg. Orig. fol. 182.*

Onus importandi, The Charge of importing mentioned, *12 Car. 2. Art. 28.*

Onus probandi, The burden of proving spoken of, *14. Car. 2. cap. 11.*

Open Law, *Lex manifesta seu apprens*, Is making Law, which by *Magna Charta*, cap. 28. Bayliffs may not put Men unto upon their own bare Assertions, except they have witness to prove the truth thereof. See *Law*.

Open Thef, That is, *open Theft*, *Quedam placita vel crimina emendari non possunt que sunt* *Husbrech*, *Berner*, *Open Thef*, *Eberemord* and *Lafordswick*, *Leg. Hen. 1. cap. 13. Hoc in emendationibus Williel. 1. R. dicitur*, saith *Spelman*.

Ora, Was a sort of Saxon Money of the value of Sixteen Pence; 'tis often mentioned in *Doomsday*, 15. *Ora libram faciunt*, say some. In the Laws of *Edward the Confessor*, cap. 12. *Manbote in Denelaga de Villano & Sokeman 12. Oras, de liberis autem hominibus 3. marcas*; you may read of it in *Doomsday* in *Landgable*, and in the same Book, *Line*. In *Stanford*, *T. R. E. 12. Lagemanni qui habent infra domos suas Sacam et Socam, et super homines suos prater Geld & Heriete & forisfacturam corporum suorum de 40 Oris argenti, &c.* See more of this in *Spelman*.

Orchel, *Anno 1 R. 3. cap. 8. Orchall*, 24 *H. 8. cap. 2.* and 3 & 4 *E. 6. cap. 2.* seems to be all one with *Corke*.

Orbis, *Anglice*, A *Wonne*, A swelling or knot in the Flesh caused by a Blow, *Bract. lib. 3. tit. De Corona, cap. 23. num. 2. — Arma moluta plagam faciunt, sicut gladius, bifacuta & huiusmodi; Ligna vero & lapides faciunt Brufuras, Orbes & iclus, qui iudicari non possunt ad plagam.*

Ordeffe or Ordeffe, *Effosso metalli*, Is a Word

derived from the Saxon *Ore Metallum*, and *Delfan* *effodere*, and often used in Charters of Privileges, being taken for a Liberty, whereby a man claims the Ore found in his own Ground, but properly is the Ore lying under ground: As also a Delfe of Coal is Coal lying in Veins under ground, before it is digged up.

Orel, *Ordalium*, Is a Saxon Word compounded of *Or*, *magnum*, and *deal*, alias *dele*, *iudicium*, or as others from *Or*, which in that Language is *privative*, and *del*, part, that is, *expers criminis*, or not Guilty; but is used for a kind of purgation practised in ancient Times, and in the Canon Law called *Purgatio vulgaris*. There were of this two sorts, one by Fire, another by Water. Of these see Mr. *Lambard* in his *Explication of Saxon Words*, verbo *Ordalium*: Of this you may read likewise *Holinshed*, fol. 98. and *Motoman* especially *Disput. de Feud. pag. 41.* where of five Kinds of Proofs, which he calleth *Feudales probationes*; he maketh this the fourth, calling it *Explorationem & huius furiose probationis 6. genera fuisse animadverit, viz. per flammam, per aquam, per ferrum candens, per aquam vel gelidam vel ferventem, per sortes & per corpus Domini*, of all which he alledgeth several Examples out of History, very worthy the reading. See *Skener de verb. Significat. verbo Machaniam*. This seems to have been in use in Henry the Second's Time, as appeareth by *Glanville*, lib. 14. cap. 1, 2. See also *Verstegan*, cap. 3. pag. 63, &c. See also *Hovorden* 556. This Ordalian Law was condemned by Pope Stephen the Second, and afterwards here totally abolished by Parliament, as appears by *Kot. Paten. de Anno 3 Hen. 3. Membr. 5.* See *Spelman* at large upon this Subject, verbo *Ordalium*, *Co. lib. 9. De strata Marcella*, and the *Saxon Dictionary*.

Ordinance of the Forest, *Ordinatio Foresta*, Is a Statute made touching Forest Causes in the thirty fourth year of *Ed. 1.* See *Affse*.

Ordinary, *Ordinarius*, Is a civil Law Term, and there signifies any Judge that hath Authority to take Cognisance of Causes in his own Right; as he is a Magistrate, and not by Deputation; but in the Common Law, it is taken for him that hath exempt and immediate Jurisdiction in Causes Ecclesiastical, as appears in *Co. lib. 9. fol. 36. Henstoe's Case*. And the Statute of *Westm. 2. cap. 19. 31. E. 3. cap. 11. and 21 H. 8. cap. 5. Co. 2. Inst. cap. 19.* See *Broke*, hoc tit. and *Linwood* in cap. *Exterior. tit. De constitutionibus*, verbo *Ordinarii*, saith, *Ordinarius habet locum principaliter in Episcopo, & aliis superioribus, qui soli sunt universales in suis iurisdictionibus, sed sub eo sunt alii ordinarii, his viz. quibus competit iurisdiclio ordinaria de jure, privilegio, vel consuetudine, &c.*

Ordinatione contra serbientes, Is a Writ that lyeth against a Servant, for leaving his Master against the Statute, *Reg. Orig. fol. 189.*

Osgild alias **Chreapgild**, Is a Saxon Word compounded of *Ors*, *pecus* and *Gild*, *solutio*, and signifies a Payment, or restoring of Cattel. But *Lamb* in his *Archael*, pag. 125, 126. sayes, 'Tis a restitution made by the Hundred or County, of any wrong done by one that was in *Plegio*.

Osgild.

Origild, *Sine solutione, sine compensatione*, Spelman.

Ortrapes, *Aurifrisum*, A sort of Cloth of Gold made and used in England, both before and since the Conquest, worn by our Kings and Nobility, as appears by a Record in the Tower, where the King Commands the Templers to deliver such Jewels, Garments and Ornaments, as they had of his in keeping, among which he names *Delmaticum velatum de Orefreis*, that is, a Garment guarded with *Ortrapes*; And of old, the Coat Armors of the Kings Guard were also termed *Ortrapes*, because adorned with Goldsmiths work.

Orgallous, But more truly *Orguillous*, that is, proud and high minded; derived from the French *Orgueil*, i. *pride*.

Orgays, 31 E. 2. stat. 3. cap. 3. Is the greatest sort of North-Sea-fish, which we now call *Organ Ling*, corruptly from *Orkney-Ling*, because the best are near that Island.

Originalia, In the Treasurers Remembrancers Office, in the Exchequer, are Records or Transcripts sent thither out of the Chancery, and are distinguished from *Recorda*, which contains the Judgments and Pleadings in Suits tryed before the Barons of that Court.

Oxtelli, Is a word used in the Book termed *Pupilla oculi*, cap. *De Chart. Forest*, part 5. cap. 22. and signifies the Claws of a Dogs-foot, being taken from the French *Orteils despieds*, i. *digiti pedum*, the Toes.

Omonds, 32 H. 8. 14. Is that Ore of which Iron is made, and it seems was anciently brought into England.

Oath of the King, *Juramentum Regis*, Is that which the King taketh at his Coronation, mentioned by *Bracton*, and divers others.

Oath of the Kings Justices, Is the Oath they take at the entrance into their Office, mentioned Anno 18 Ed. 3. stat. 4.

Otho, Was a Deacon-Cardinal of St. Nicholas, in carcere Tulliani, a Legate for the Pope here in England, 22 H. 3. whose Constitutions we have at this day, *Stowe's Annals*, pag. 303.

Othobonus, Was a Deacon-Cardinal of St. Adrian, and the Pope's Legate here in England, 15 H. 3. as appeareth by the Award made betwixt the said King and his Commons at *Kenelworth*; his Constitutions we have at this day in use.

Ouch, 24 H. 8. 13. A kind of Collar of Gold, worn by Women about their Necks. It is sometimes also used for a Bos or Button of Gold set with some rich stone.

Oversamella, This seems to have been anciently a Fine (before the Statute of *Hue and Cry*) laid upon those, who hearing of a Murder or Robbery, did not pursue the Malefactor, 3. Inst. fol. 116. and to be the same, which is else-where written *Overslegenesse* and *Oversenelle*. Si quis furi obviverit & sine vociferatione cum dimiserit, emendat secundum Weram ipsius furis vel plena lada se adlegiet, quod cum eo falsum nescivit; si quis audito clamore supersevit, reddat *Oversamella Regis*, &c.

Owealty of Services; Is equality of Services, as when the Tenant Paravail owes as much to the Mesne, as the Mesne does to the Lord Paramount, F. N. B. fol. 36. See *Owely of Partition*, Co. on Lit. fol. 169.

Overt act, *Factum apertum*, An open act, Co. 3. Inst. fol. 12. which must be manifestly proved.

Overt word, An open plain Speech, derived from the French *Ouvert*, open, Anno 1 Mar. Sess. 2. cap. 3.

Ouster le maine, *Amovere manum*, Signifies to take off the hand, though in true French it should be *Ouster la main*; In a legal sense, it denotes a Judgment given for him that traversed or sued a *Monstrans le droit*, and is indeed a delivery of Lands out of the King's hands; for when it appeareth upon the matter discussed, that the King hath no Right or Title to the thing seised, then Judgment shall be given in the Chancery, That the King's hands be removed, and thereupon an *Amoveas manum* shall be awarded to the Escheatour, which is as much as if the Judgment were given, that he shall have again his Land, *Stamf. Prerog. cap. 24*. See 28 E. 1. Stat. 3. cap. 19. It was also taken for the Writ granted upon this Petition, F. N. B. fol. 256. It is written *Oter le maine*, 25 H. 8. 22. But now all Wardships, Liveries, Primer-seisins, and *Ouster le mains*, &c. are taken away and discharged by 12 Car. 2. cap. 24.

Ouster le mer, *Ultra mare*, Is a cause of excuse or esoine, if a man appear not in Court upon Summons. See *Esoine*.

Ousted, Derived from the French *Oster*, to remove, as ousted of the Possession, that is, removed or put out of possession, Mich. 9. Car. 1. Cro. 3. Rep. fol. 349. *Pocke's Case*.

Ousfanghtes, Is thus defined by *Bracton*, lib. 3. traft. 2. ca. 34. *Ufanghtese dicitur latro extraneus veniens aliunde de terra aliena & qui capus fuit in terra ipsius qui tales habet libertates*; But *Britton* hath it otherwise, fol. 91. It is a Compound of three Saxon words, viz. *Out*, *extra*; *Fang*, *capio* vel *captus*, and *Thes*, i. *fur*. It is used in the Common Law for a Liberty or Privilege, whereby a Lord is enabled to call any man dwelling within his own Fee, and taken for Felony in any other place, and to Judge him in his own Court, *Rastall's Exposition of words*, and 1 & 2 P. & M. cap. 15.

Outlaw, *Utlagatus*, One deprived of the benefit of the Law, and out of the King's Protection, *Fleta*, lib. 1. cap. 47. calls him *Bannitum extra legem*, and *Bracton*, lib. 3. traft. 21. cap. 11. num. 1. & 3. says, *Forisfacit utlagatus omnia quae panis sunt quia a tempore quo utlagatus est caput gerit Lupinum ita quod ab omnibus interfici possit & impune; maxime si se defenderit vel fugerit ita quod difficilis sit ejus captio*: But in the Reign of Edward the Third, all the Judges agreed, That none but the Sheriff only, having lawful warrant therefore, should put to death any man outlawed, Co. on Lit. fol. 128. See *Utlary*, and *Capias utlagatum*.

Outlawry, *Utlagaria*, Is the loss of the benefit of a Subject, that is of the King's Protection. See *Utlary*.

Outparters, A kind of Theeves in *Riddes-*

dale, that stole Cattel, or other things without that Liberty: Some are of Opinion, That those which in the fore-named Statute are termed *Out-pariers*, are now called *Outputers*, being such as set Matches for the robbing any Man or House. See *Intakers*.

Outriders, Are Bayliffs Errant, employed by the Sheriffs, or their Deputies, to ride to the farthest places of their Counties or Hundreds, with the more speed to summon such as they thought good to their County or Hundred Courts, 14 E. 3. Stat. 1. cap. 9.

Owelry, Is, when there is Lord, Mesne and Tenant, and the Tenant holds of the Mesne by the same Service that the Mesne holds over of the Lord above him; this is called *Owelry* of Services. See *Owelry*.

Owrel. See *Ordeal*.

Oxgange of Land, *Bovata terra*, Six Oxganges of Land is so much as six Oxen can Plough, *Crompt. Jur. fol. 220*. But an oxgange seemeth properly to be spoken of such Land as lyeth in Gaynour, *Old Nat. Brev. fol. 117*. Skene de verb. Signif. verbo *Bovata terra*, faith, That an Oxengate of Land should always contain thirteen Acres, and that 4 Oxengates extend to a pound Land. Spelman says, *Bovatus terra est quantum sufficit ad iter vel actum unius bovis*. Ox enim est bos & gang vel gate, iter. See *Co. on Lit. fol. 69*.

Oyer and Terminer, *Audiendo & terminando*, In true French Ovir & Terminer, Is a Commission especially granted to some eminent persons, for the hearing and determining one or more Causes: This formerly was used only upon some sudden Outrage or Insurrection in any place, *Crompt. Jur. fol. 131, 132*. *Westm. 2. cap. 29. 13 E. 1.* by which you may see who might grant this Commission, and for the form thereof, and to whom it may be granted, *F. N. B. fol. 100*. and *Broke hoc tit.* A Commission of Oyer and Terminer is the first and largest of the five Commissions by which our Judges of Assise do sit in their several Circuits.

Oyer de Record, *Audire recordum*, Is a Petition made in Court, that the Judges, for better proofs sake, will be pleased to hear or look upon any Record. So when an Action is brought upon an Obligation, the Defendant may pray *Oyer* of the Bond; or if Executors sue any one, the Party sued may demand *Oyer* of the Testament. See *Monstrans de faits*.

Oyez, Corrupted from the French *Oyez*, i. *Audite*, Hear ye, Is known to be used by our Cryers, as well in Courts as else-where, when they make Proclamation of any thing.

P.

Paagium, *Mat. Paris, fol. 767*. *Fecit equos meos & homines restare donec Paagium extorsisset*. Spelman thinks it should be read *Passagium sive telonium exaltum pro transitu*, &c.

Pack of Wooll, Is a Horse-load which consists of seventeen Stone and two pound, *Fleta, lib. 2. cap. 12*. See *Sarplar*.

Packers, Are those that barrel, or pack up

Herrings, and they are sworn to do it according to the Statute made 15 Car. 2. cap. 14.

Packing whites, A kind of Cloth so called, mentioned 1 R. 3. cap. 8.

Pacificaton, *Pacificatio*, A making of Peace, spoken of 17 Car. 1. cap. 17. relating to the Wars between England and Scotland, Anno 1638.

Padrage, *Idem quod Pannagium*. Vide *Chartam Regis Hen. 1. Ecclesie S. Martini de Bello*.

Pagumens, A Frize Cloth, mentioned in the Journal Book of the House of Lords, in a Statute made 1 Eliz. not printed.

Paine fort & dure, *Pena fortis & dura*, It signifies an especial punishment for those that being arraigned of Felony, refuse to put themselves upon the ordinary Tryal of God and the Country, and thereby are mute by the interpretation of the Law. Britton mentions it in his fourth Chapter, fol. 11. And Stamford in his Pleas of the Crown, founding it upon the Statute of *Westm. 1. cap. 12*. describes it thus,

HE shall be sent back to the Prison whence he came, and laid in some low dark House, where he shall lye naked on the Earth, without any Litter, Ruffes, or other Clothing, and without any Rayment about him, but only something to cover his privy Members: And he shall lye upon his back with his Head covered and his Feet, and one Arm shall be drawn to one quarter of the House with a cord, and the other Arm to another quarter, and in the same manner let it be done with his Legs; and let there be laid upon his Body Iron and Stone as much as he may bear, or more; and the next day following he shall have three morfells of Barley-bread without drink, and the second day he shall have drink three times, and as much at each time as he can drink of the water next unto the Prison, except it be running water, without any bread: And this shall be his Dyet till he dye.

This kind of Punishment called by the Law *Paine fort et dur*, is that which we vulgarly call *Pressing to death*.

Pais, A Country or Region; *Triall per Pais*, which Spelman in his *Glossary* faith, *Non intelligendum est de quovis populo, sed de compagesibus, hoc est eorum qui ex eodem sunt comitatu, quem majores nostri pagum dixere & incolas, inde pais*.

Palatine. See *County-Palatine*, and read *Cassan. de consuetud. Burg. pag. 14*.

Palfrey, *Palfredus*, *Palafredus*, *Palefredus*, *Palifradus*, Is one of the better sort of Horses used by Noble-men and others for State: And sometimes of old taken for a Horse fit for a woman to ride. Camden says, That *W. Fauconberge* held the Mannor of *Cukency*, in the County of *Nottingham*, in Sergeanty, by the Service of shooing the King's Palfry, when the King shall come to *Mansfeld*. See *Co. on Lit. fol. 149*.

Palfrey Silver, *Custumam ibidem* (speaking of *Belvoir Castle*) vocant *Palfrey silver*, que levare debet annuatim de villis de *Batelesford*, Nor.

Normanton, Herdeby, &c. *Esaet.* 23 E. 3. *Post mortem Gul. de Roos de Hamlake.*

Palingman, 11 H. 7. 22. This word is mentioned both by *Cowell* and *Spelman*, and by both left without interpretation; but by the sense of the Statute it seems to be a Merchant Denizen, one born in England.

Palls, *Pallia*, 25 H. 8. 20. Are Vestures made of Lambs-wooll, in breadth not exceeding three Fingers, and having two Labels hanging down before and behind, which the Pope gives or sends to Archbishops and Metropolitans, who wear them about their Neck, at the Altar, above their other Ornaments. The *Pall* was first given to the Bishop of *Ostia*, by Pope Marcus the Second, Anno 336. And the Preface to an ancient Synod here in England, wherein *Odo* Archbishop of Canterbury presided, begins thus, *Ego Odo humilis & extremus, divina largiente clementia, almi Præsulis & Palii honore ditatus*, &c. *Selden's History of Tythes*, pag. 17. See more of this in *Spelman's Glossary*, verbo *Pallium*.

Palmer, Are such as used to go in Pilgrimage out of devotion; but of late time, he that can deceitfully cosen at Cards or Dice, by keeping some of them in his hand unseen, we call a Palmer.

Palmata alias **Palmada**, A blow upon the hand with a *Verula*, a thing frequently used in Schools. *Beda de remedio peccatorum*, cap. 14. *Si quis intinxerit manum in aliquo cibo & non idonea manu centum Palmadis emendetur.*

Panagia, Quasi *panis ágios*, Holy Bread, *Reg. Eccles. Hereford differentias referens Orientalis Eccles. a Romana*, Artic. 10. Item (dicunt Græci) *panem nostrum Panagium.*

Pandoxatrix, In a Manuscript Book concerning the Laws, Statutes, and Customs of the free Borough of Mountgomery, from the times of Hen. 2. fol. 12. b. We read these words, *Item utitur de Pandoxatricibus, quod nemo potest brasiare sive Pandoxare in villa & Burgo nostro nisi per redemptionem aliquam factam ad voluntatem Comburgensium nostrorum & si talis Pandoxatrix brasiaverit & assam Domini nostri Regis in Burgo & villa positam & proclamata frerit, debet capi per Ballivos, amercari ad voluntatem Ballivorum nostrorum & non per pares suos primo & secundo & si tertia vice Assam frerit debet capi per Ballivos capitales & publice duci ad locum ubi sitatur le Gogingstole, & ibi debet eligere unum de duobus, viz. an Velit le Gogingstole ascendere, an illud iudicium redimere ad voluntatem Ballivorum.* In the Dictionary *Pandox* is made to signifie a Drunkard, and *Pandoxatorium* a Brew-house; but in this place it seems to signifie an Ale-wife that both brews and sells Ale and Beer.

Panell, *Panella* vel *Panellum*, so written both by *Fortescue* in his Book *de Laudibus legum*, Ang. cap. 25. and *Co. on Lit.* pag. 158. who says, It denotes a little Part. But the learned *Spelman* in his *Glossary* says, *Hoc est minus congruè*: It properly signifying *Schedula* vel *pagina*, or rather *Pagella*, a Schedule or Page; and thence deduced *in n. transuente*, sic veteres quidam Manipulat pro Magnificat. Hence comes the Law term *impanellare*, to impanel; and to impanel a Jury, that is, to write in a Schedule or Roll the Names of such Jurors

as the Sheriff returns to pass upon any Tryal, *Reg. Orig.* fol. 223. *Kitchin*, fol. 266. So we say a Panel of Parchment, and the Counterpane of an Indenture. See 8 H. 6. cap. 12. and *Spelman*, verbo *Panella*.

Pannage or **Pawnage**, *Pannagium*, Which is that Food that the Swine feed on in the Woods, as Mast of Beech, Acorns, &c. which some have called **Pawnes**: It is also the Money taken by the *Agistors*, for the food of Hogs, with the Mast of the King's Forest, *Crompt. Jur.* fol. 155. *Westm.* 2. cap. 25. *Manwood* in his *Forest Laws*, cap. 12. says, It is most properly taken for the Mast of the Woods within the Forest, or the Money due to the Owner of the same for it. *Linwood* defines it thus, *Pannagium est pastus pecorum in nemoribus & in silvis utpote de glandibus & aliis fructibus arborum sylvestrium, quarum fructus aliter non solent colligi.* *Tit. de Decimis*, mentioned also 20 Car. 2. cap. 3. *Quisquis villanus habens 10. porcos, eat unum porcum in Pannagio, Doomfday.* This word is variously written *Pannagium*, *Panagium*, *Pathnagium*, *Patnagium*, *Pannagium* & *Pen-nagium*; and sometimes *Pasnagium*, from the French *Pasnag*. *Breve Regis Henrici 1. lib. Rameiens*, sect. 313. *Henricus Rex Angliæ Justiciariis & omnibus Baronibus & fidelibus suis de Huntingdonshire, salutem, Præcipio quod Abbas de Ramefia teneat omnes boscos suos bene & in pace & quietè & honorificè sicut unquam melius tenuit; & nullus super hoc eos capiat vel invaset sine licentia Abbatis & si quid ei debetur de panagio, reddatur ei iuste & si aliquis ei inde super hoc injuriam vel contumeliam fecerit, faciat ei habere plenum regram.* *Teste Milone Gloc.* apud Winton, and Chart. 1. fundat. *Waldens Cænobii*, Clamo etiam quietum panagium de omnibus Dominicis porcis, &c.

Pape or **Pope**, *Papa*, May with ease enough be derived from the old Greek word *πάππας*, intending a Father, and was anciently applied to other Clergy-men in the Greek Church, but by usage is particularly appropriated in the Latine Church to the Bishop of Rome: A Name very frequent in our Year-Books, especially in the times of those Kings, who too much abandoning their Imperial Authority, and abasing themselves beneath their Estate, suffered an Alien, a foreign Bishop, that dwelt 1000 miles distant, to deprive them of the disposition of many Spiritual Promotions; sometimes by *Lapse*, sometimes by *Provision*, or otherwise: For redress whereof, divers Statutes were made, while this Kingdom was of the Roman Communion, but his power was not wholly taken away till towards the latter end of King Henry the Eighth's Reign.

Parage, *Paragium*, From the French *Parag*, that signifies an equality of Name of Blood, Dignity, and also of the partition of Lands: Hence we have *Disparagement*, and to *disparage*. See *Parcenery*.

Parafrebus. See *Palfrey*.

Paramount, Cometh of two French words *Par*, that is, *Per*, and *Mont*, *ascendere*: It signifies in our Law the Supreme Lord of the Fee; for there may be a Tenant to a Lord, that holdeth over of another Lord, the former of which is called *Lord Mesne*, and the second *Lord Paramount*, *F. N. B.* fol. 135. And a *Lord Paramount*

mount (saith *Kitch. fol. 289.*) consisteth only in comparison, as one man may be great being compared to a less, and little being compared with a greater; so that none seemeth simply to be Lord Paramount but only the King, who is Patron Paramount to all the Benefices of England, Doct. and Stud. cap. 36. See *Paravaile, Manor, Mesu and Fee.*

Paraphernalia, Or according to the Civil Law *Paraphernalia*, from *para* & *prater* and *paraph* dos, are those Goods which a Wife, besides her Dower or Joynture, is after her Husband's death allowed to have, as Furniture for her Chamber, wearing Apparel, and Jewels if she be of quality, which are not to be put into her Husband's Inventory, especially in the Province of York. See *Touchstone of Wills, fol. 201.*

Paragraph, Paragraphus, Is the division of one matter from another in several lines; It is said to be *Scripturae divisio*. Per *Isid. not. in princip. Decretorum.*

Paranymph, Paranympus, A Bride-man, derived from *para*, (i.) *juxta* & *νυμφη*, *sponsa*, as much as to say, *Affidens sponsa*, Assistant to the Bride and Bridegroom; *Vocabular. utriusq; juris, verbo Paranympbi.*

Parathalassia, Walsingham in the County of Norfolk, so styled by *Erasmus.*

Paracium, The tenure that is between *Parceners*, viz. that which the youngest oweth to the eldest. *Doomsday.*

Paravaile, Is a Compound of two French words, *Par. i. Per,* and *Avayler, demittere*: It signifieth in our Common Law the lowest Tenant, or him that is Tenant to one who holdeth his Fee over of another, and is called *Tenant paravaile*, because it is presumed he hath profit and avayle by the Land, 2. *Inst. fol. 296.* and *Co. 9. Rep. Come's Case*; For the use of this word, see *F. N. B. fol. 135.*

Parcelle terre, A small piece of Land, *Sciatis, &c. quod ego Stephanus Wington de Bromyard dedi, &c. Roberto de Dunapton pro triginta solidis argenti unam parcellem terre mea cum pertin. jacent. in Bromyard, &c. sine Dat.*

Parcel-makers, Are two Officers in the *Exchequer* that make the *parcells* of the *Escheators* Accounts, wherein they charge them with every thing they have levied for the King's use within the time of their Office, and deliver the same to one of the *Auditors* of the Court, to make an Account with the *Escheator* thereof. See *The Practice of the Exchequer, pag. 99.*

Parceners, Quali Parcellers, i. *Rem in parcellas dividens*. *Parceners* therefore are according to the course of the Common Law, or according to Custome; *Parceners* according to the Common Law are, where one seised of an Estate of Inheritance, hath Issue only Daughters, and dies, and the Lands descend to the Daughters; then they are called *Parceners*, and are but as one Heir. The same Law is, if he have not any Issue, but that his Sisters be his Heirs. *Parceners* according to Custom are, where a man is seised of Lands in *Gavelkind*, as in *Kent*, and other places Franchised, and hath Issue divers Sons, and dies, then the Sons are *Parceners* by the Custome. See *Co. on Lit. lib. 3. cap. 1. sect. 241.*

Partinary, Participatio, Cometh of the

French *Partir, i. dividuum facere*, and signifies in a legal sense a holding or occupying of Land *pro indiviso*, by Joynt-tenants, otherwise called *Coparceners*, of the French *Parsonier, i. Particeps*; for if they refuse to divide their common Inheritance, and choose rather to hold it joyntly, they are said to hold in *Parcinery*, *Lit. fol. 56, 57.* This, by the *Feudist* and *Lombards*, is termed *Adequatio vel peragium*; and accordingly in *Doomsday* it is said, *Duo fratres tenuerunt in Paragio, quisq; habuit aulam suam, & potuerint ire quo voluerint*; The ancient *Romans* stiled such *Particulones*, sic enim auctore *Nonnio, a veteribus coheredes inter se dicebantur, quod partes invicem facerent.* *Spigelius.*

Pardon, Pardonatio, Is a French word signifying as much as *Venia*, and used in the Common Law for the remitting or forgiving of a Felony, or other Offence committed against the King; And this is two-fold, one *ex gratia Regis*; the other, *per course de la ley*, by course of the Law, *Stamf. pl. cor. fol. 47.* *Pardon ex gratia Regis*, is that which the King, in some special regard of the person, or other circumstance, affordeth upon his absolute Prerogative. *Pardon by the course of Law*, is that which the Law in equity affordeth for a light Offence; as *Homicide casual*, when one killeth a man, having no such meaning, *West Symbol, part 2. tit. Indictments, sect. 46.* See more of this in the *New Book of Entries, verbo Pardon.*

Pardoners, Anno 22 H. 8. Were persons that carried about the Pope's Indulgences, and sold them to any that would buy them: But we have none at present in England that are known.

Park, Parcus, From the French *Parc*, or *Parque, locus conclusus*: It signifies with us a piece of Ground inclosed, and stored with wild Beasts of Chace, which a man may have by Prescription, or the King's Grant, *Crompt. Jur. fol. 148.* *Manwood* in his *Forest Laws* defines it thus, *A Park* is a place for privileged for wild Beasts of Venery, and also for other wild Beasts that are Beasts of the Forest and of the Chace, *tan sylvestres quam campestres*, and such a *Park* differs from a Chase or Warren, in that it must be inclosed, and may not lye open for if it do, that is a good cause of Seifure into the hands of the King, as a thing forfeited, as a free Chase is if it be enclosed; besides, the Owner cannot have an Action against such as hunt in his *Park*, if it lye open. See *Forest*, see *Chace*, see *Warren*, *Gulielm. Cong. liberam fecit Ecclesiam de Bello, de apere parcorum*, *Spelman's Gloss.* And *Hen. 1.* had a *Park* at *Woodstock*, wherein were *Lyons, Leopards, Camels, &c.* brought thither from foreign parts, *Stow, An. 1117.* See *13 Car. 2. cap. 10.*

Parco fracto, Is a Writ that lies against him that violently breaketh a Pound, and taketh out Beasts thence, which, for some Trespass done upon another man's Ground, are lawfully impounded, *Reg. Orig. fol. 166. F. N. B. fol. 100.*

Parkboie, Is to be quit of enclosing a *Park*, or any part thereof, *Co. 4. Inst. fol. 308.*

Parish, Parochia, Signifies the Precinct of a Parish Church, and the particular charge of a Secular Priest; for every Church is either *Cathedral, Conventual*, or *Parochial*; *Cathedral*, is where there is a Bishop seated, so called. *Conventual*, consisteth of regular Clerks, professing some Order of Religion, or of Dean and Chapter, or other

other Colledge of Spiritual persons. *Parochial*, is that which is instituted for the saying of Divine Service, and ministering the holy Sacraments, to the people dwelling within a certain compas of ground near it. Our Kingdom was first divided into Parishes by *Honorius Archbishop of Canterbury*, in the year of our Lord, 636. *Camd. Brit. pag. 104.* whose number at present is esteemed to be nine thousand two hundred eighty four; though many Authors differ much herein. See *Hotoman* in his *Disputations, De feudis, cap. 2.* concerning this word *Parochia*.---*Ego Ceolwulfus Dei gratia Rex Merciorum, rogatus à Werfritho Episcopo Hwiciorum, istam libertatem donavi, ut tota Parochia Hwiciorum à pastu equorum Regis & eorum qui eos ducunt libera sit, &c.* *Charta Ceolwulfi Regis, Anno 872.*

Parle-Hill, Spelman in his *Glossary* gives us this Description of it, It is (sayes he) *Collis vallo plerumq; munitus, in loco campestri, ne insidiis exponatur, ubi convenire olim solebant centurie aut vicinie incolae ad lites inter se tractandas & terminandas; Scotie reor Grith-hail q. mons pacificationis, cui Asili privilegia concedebantur, & in Hibernia frequentes vidimus the Parle and Parling-Hills.*

Parliament, Parliamentum, Is deduced from a French Ground, viz. *Parler* to speak, and *Ment*, *Mens* the Mind, *quasi parler la ment*, to speak ones mind; and the *Writ* which summons it, sayes, *Ad consulendum, &c. de arduis Regni negotiis*; It is indeed a Solemn Conference of all the States of the Kingdom summoned together by the King's only Authority, to Treat of the weighty Affairs of the Realm. The ancient Britains had no such Assemblies, for *Tacitus* avers, That although *Olim Regibus parebant, nunc per Principes factionibus & studiis trahuntur*; nec aliud adversus validissimas gentes pro nobis utilius quam quod in commune non consulunt; *Rarus, duabus tribusve civitatibus ad propulsandum commune periculum, conventus; ita dum singuli pugnant, universi vincuntur.* That the Saxons had something like it, will appear from King *Inas* Laws, who flourisht Anno 712. *Consilio (inquit) & documento Cenredi Patris mei, Heddæ & Erkenwaldi Episcoporum meorum omniumq; Aldermannorum meorum & seniorum sapientum populi mei, magnâ etiam servorum dei frequentia.* But to come a little nearer, *William* the Conqueror divided this Land among his Followers, in such manner, that every one of them should hold their Lands of him in *Capite*; and they again distributed part thereof among their Friends and Servants, who, for the same, were bound to do them Suit and Service in their Courts: The chief of these were called *Barons*, who thrice every year assembled at the King's Court, viz. at *Christmasts*, *Easter* and *Whitsontide*; amongst whom the King was wont to come in his Royal Robes, and his Crown on his Head, and to consult about the Publick Affairs of the Kingdom: But this ancient Custom (say some) was changed by *Henry the First*, who, in the Sixteenth year of his Reign, summoned of the *Commons* to the great Council at *Salisbury*. But see *Sir Walter Raleigh* in his Book of the *Prærog. of Parliaments*, and *Cotton's Posthuma*, fol. 15. and *Co. 2. Inst. fol. 268.* At this day it is the greatest Assembly of the Kingdom, consisting of the King

and the three Estates of the Realm, viz. The Lords Spiritual, the Lords Temporal, and the Commons, for the debating of Matters touching the Common-wealth, especially the making and altering of Laws, *Smith de Rep. Anglor. lib. cap. 1. & 2. and Camd. Brit. pag. 112.* Concerning which *Co. on Lit. lib. 2. cap. 10. sect. 164.* and in the Fourth Part of his Institutes saith, *Si vetustatem spectes est antiquissima, si dignitatem est honoratissima, si jurisdictionem est capacissima.* This in an ancient Charter of King *John*, was called *Commune concilium Regni*.---*Nullum scutagium vel auxilium ponam in Regno nostro nisi per Commune concilium Regni nostri, &c.* But besides this Supreme Court, there are other inferior Parliaments, The Abbot of *Croyland* was wont to call a Parliament of his Monks, to consult about the Affairs of his Monastery: These are the words in the Book of *Croyland*, *Concessimus etiam tunc Serjentium nostræ Ecclesiæ Semanno de Lek, qui veniens coram conventu in nostro Publico Parlamento similiter juramentum prestitit, quod fidas & fidelis nobis existeret, &c.* And at this day the Societies of the two Temples, or Inns of Courts, do call that Assembly a Parliament, wherein they consult of the Common Affairs of their several Houses. See *Crompt. Jur. fol. 1.* See *King, and Royal Assent.*

Parliamentum insanum, So called in History was a Parliament held at *Oxford*, Anno 41 H. 3. M. S. in *Bibl. Cotton. fab. tit. Vitellius, C. 9.*

Parliamentum indoctorum, Was a Parliament held at *Coventry*, 6 H. 4. whereunto, by special precept to the Sheriffs in their several Counties, no Lawyer, or person skill'd in the Law, was to come, and therefore it was so called. *Wal. sing. pag. 412. n. 30. Rot. Parl. 6 Hen. 4.*

Parol, (Loquela) is a French word, *Kitch. fol. 193.* uses it for a Plea in Court. It is sometime joyned with *Leafe*, as *Leafe-parol*, that is, *Leafe per parol*; a Leafe by word of mouth, to distinguish it from a Leafe in writing.

Parson, Persona, Signifies the Rector of a Church, because, for his time, he represents his Church, and sustains the person thereof, as well in suing as being sued in any Action touching the same, *Fleta, lib. 9. cap. 18.*

Parson imparsonee, Persona impersonata, Is he that is in possession of a Church whether appropriated, or not appropriated. For in the *New Book of Entries*, verbi. *Ad in Annuiti*, you have these words, *Et predictus A. dicit quod ipse est persona predictæ Ecclesiæ de S. impersonata in eadem ad præsentationem R. Rectoris, &c.* So that persona seems to be the Patron, or he that hath right to give the Benefice, by reason that before the *Lateran Council* he had right to the Tythes, in respect of his liberality used in the erecting and endowing the Church, *Quasi sustineret personam Ecclesiæ*; And persona impersonata, to be he to whom the Benefice is given in the Patrons right; for we may read in the *Register Judicial Personam impersonatam*, for the Rector of a Benefice presentative, and not appropriated, fol. 34. and *Dyer, fol. 40. num. 72.* saith, That a Dean and Chapter be persons imparsonees of a Benefice appropriated unto them, and fol. 221. expressly shews, That persona impersonata is he that is inducted, and in possession of a Benefice. So that persona seems

to be termed *impersonata*, in respect of the possession that he hath of the Benefice or Rectory, be it appropriate, or otherwise, by the act of another, Co. on Lit. fol. 300.

Parters of Gold and Silver. See *Finers*.

Partes finis nihil habuerunt, &c. Is an exception taken against a Fine levied, Co. 3. Rep. fol. 88. *The Case of Fines.*

Partitio facienda, Anno 31 H. 8. c. 1. Is a Writ that lies for those who hold Lands or Tenements *pro indiviso*, and would sever to every one his part, against him or them that refuse to joyn in partition, as Coparceners, &c. *Old Nat. Brev. fol. 142. F. N. B. fol. 61. And New Book of Entries, verbo Partition.* See *Partition*.

Partition, Partitio, Is a dividing of Land descended by the Common Law, or by Custom, among Co-heirs or Parceners, where there are two at least; and this Partition is made four ways, whereof three are by Agreement, the fourth by Compulsion: The first partition by Agreement is, when they themselves divide the Land equally into so many parts as they are Coparceners, and each to chuse one share or part according to order. The second is, when they chuse certain of their Friends to make the division for them: The third is, by drawing Lots thus, having first divided the Land into as many parts as there be Parceners; they write every part severally in a distinct Scroll, and wrapping it up, throw each of them into a Hat, Balon, or such thing, out of which each Parcener draws one, according to their seniority, and so the Land is severally allotted. The fourth partition, which is by compulsion, when one or more of the Parceners, by reason of the refusal of some other, sues out a Writ of *Partitio facienda*, by force whereof they shall be compelled to part. In Kent, where the Land is of Gavelkind nature, they call their partition *Shifting*, from the Saxon *Shiftan*, to divide: In Latine it is called *Hericifere*; Partition also may be made by Joynt-tenants, or Tenants in Common by assent, by Deed, or by Writ, 31 H. 8. 1. 32 H. 8. 22.

Parricide, Parricida, Properly signifies him that kills his Father, and may be applied to him that murders his Mother.

Parties, Are those which are named in a Deed, or Fine, as parties to it, as those that levy the Fine, and to whom the Fine is levied: So they that make any Deed, and they to whom it is made are called *Parties to the Deed*.

Particata terra. See *Partiana*.

Partijury, 14 Car. 2. cap. 11. See *Modestas Lingua*.

Partlet, Was some part of the Attire, a kind of Band, or Neck-kerchief, which in some places still retains the name: This word is read in the Statute of 24 H. 8. cap. 13.

Parvise. See *Parvise*.

Parvo nocumenta, Is a Writ of *Nuisance*. See *Nuisance*.

Paschal Rents, Are Rents or annual Duties paid by the inferior Clergy to the Bishop, or Arch-deacon, at their Easter Visitation; They are also termed *Synodals*. See *Synodals*.

Passage, Passagium, Is a French word

signifying *Transitum*: By the Statutes of 4 E. 3. cap. 7. and *Westm. 2. cap. 25*. It denotes the hire that a man pays for being transported over Sea, or over any River. In the Charter of Henry the First, of the Liberties of London, we find these words, *Et omnes res eorum per totam Angliam & per portus Maris, de Tholonio & passagio, & Lastagio, & omnibus aliis consuetudinibus, per passagium Clamat esse quiet. de omnibus in Com. Cestrie & Flint pro omnibus carellis, cariag. ejus servientibus & summagiis suis oneratis. Pl. in Itin. apud Cestriam, 14 H. 7.*

Passagio, Is a Writ directed to the Keepers of the Ports, to permit a man to pass over Sea that hath the King's Licence, *Reg. Orig. fol. 193, 194.*

Pascua. See *Pasture*.

Pascuage, Pascuagium, in French *Pasnage*, the feeding or pasturing of Cattel: --- *Et habere viginti porcos quietos de pascuagio, & fualium ad panem suum & cibos coquendos, &c.* Chart. Rich. de Munthichet Priorat. de Tremhale in Mon. Ang. 2. par. fol. 23. Also the same with *Pannage*.

Passerport, A Compound of two French words, viz. of *Passer*, *transire*, and *Port*, *portus*, a Haven: It signifies a Licence made by any that hath Authority for the safe passage of any man from one place to another, 2 E. 6. cap. 2.

Pasture, Pastura, Feeding for Cattel; and therefore we call Feeding-Grounds *Common of Pasture*. *Limwood in lib. 3. Provincial, Ang. tit. De Decimis, cap. Quoniam*, says, *That Differunt pascua & pastura, nam pastura omne genus pascendi significat, five fiat in pratis, five in stipula, five in agris, five in campis, sed pascua est locus principaliter deputatus pecoribus pascendis, ut puta in montibus, moris, mariscis & planis non cultis nec aratis.*

Patents, Literæ Patentes, Differ from Writs, *Crompt. Jur. fol. 126*. The Coroner is made by Writ, and not by Patent. See *Letters Patent*, and also *Literæ Patentes*; in the Table of the Register, where you may find the form of divers.

Patentee, Is he to whom the King grants his Letters Patent, 7 E. 6. cap. 3.

Pasuage or Pannage, Money taken for Mast, or the feeding of Hogs, *Doomsday. Bracton* calls it *Pessona*, and we *Pannage*. See *Pannage*.

Patria, Properly signifies the Country, but in the Law it denotes the men of a Neighbourhood; so when we say *Inquiratur per patriam*, we mean a Jury of Neighbourhood; in like manner *Assa vel recognitio per Assam*, idem est quod *Recognitio patriæ*.

Patriarch, Patriarcha, Is a Greek word signifying a chief Father, Anno 385. In the General-Council holden at Constantinople, it was decreed, That the Bishop of Constantinople should for ever be called a Patriarch.

Parrinus, Fidejussor in Baptismate, Anglicè a God-father, *Uti Paulus se dixit Onesimum genuisse & Corinthios.*

Patron, Patronus, Is used in the Civil Law for him that hath manumitted a Servant, and thereby is both justly accounted his great Benefactor, and challengeth certain Reverence and Duty of him during his life. See the Title *De Jure Patronatus*.

natus in the Digest, with the Feudists pro autore feudi. Hotoman verbo Patronus, in his Comment de verbis feudal. Both in the Canon and Common Law it signifies him that hath the Gift of a Benefice, and the reason is, because the Gift of Churches and Benefices belonged unto such good men as either built, or else endowed them with some great part of their Revenue. And Corasius in his Paraphrase Ad sacerdotiorum materiam, part. prim. cap. 2. & part 4. cap. 6. writes thus of them, Patroni in jure Pontificio dicuntur qui alicujus Ecclesie extruenda aut alteriuscujuscunq; fundationis Ecclesiastica auctores fuerunt, ideog; presentandi & offerendi clericum jus habent quem Ecclesie vacanti praeesse & in ea collatis redditibus frui velint. Acquirunt autem hoc jus qui vel fundant Ecclesiam vel dotant, &c.

Paving, Rot. Par. 10 Ed. 3. m. 32. Money paid towards the paving of the Streets or High-ways.

Pawnage. See Pannage.

Pax Dei. See Peace of God.

Pax Ecclesie, Dicitur, cum salva sunt Ecclesie omnia Privilegia, & Immunitates, servi, famuli, Ministri, &c. Vide Leg. Edw. Conf. cap. 8.

Pax Regis, The King's Peace, Nam longè debet esse Pax Regis à parte sua, ubi residens fuerit à quatuor partibus loci illius, hoc est quatuor miliaria & tres quarentenae & novem acra latitudine, & novem pedes, & novem palmæ, & novem grana hordei, &c. Leg. Ed. Conf. cap. 12. See Spelman.

Pauper, Signifies properly a poor man, according to which we have a term in Law to sue in *Forma pauperis*; that is, if a Man or Woman having Cause of Action, and not having ability to sue, the Cause of Action being certified under Counsels hand, with a Petition of the party, setting forth their Case and Poverty; the Judge of the Court, whether in Common Law or Equity, will admit the party, to sue in *Forma pauperis*, that is, assign them an Attorney or Clerk, and Counsel to defend their Cause, and plead for them without Fees.

Peace, Pax, In the general signification is oppositè to War or Strife: But particularly with us it intends a quiet and harmless behaviour toward the King and his People, Lamb. Eirenarch. lib. 1. cap. 2. pag. 7. And if any man goes in danger of harm, or bodily prejudice from another, and makes Oath of it before a Justice of Peace, he shall be secured by good Bond, which is called *Binding to the Peace*, Lamb. Eiren. lib. 2. cap. 2. pag. 77. Crompt. Just. of Peace, fol. 118. ad 129. And also *Frank-pledge* and *Conservator of the Peace*. Time of Peace is, when the Courts of Justice are open, and the Judges and Ministers of the same may by Law protect Men from wrong and violence, and administer Justice to all, Co. on Lit. fol. 249.

Peace of God and the Church, Pax Dei & Ecclesie, Was anciently used for that rest and cessation which the King's Subjects had from trouble and suit of Law between the Terms. See Vacation, and Pax Dei. Tempus dicitur cuius divino adhibuitur, eoz; appellatione omnes dies Dominici, festa & vigiliae conservantur. Spelman.

Peace of the King, Pax Regis, 6 R. 2. Stat. 1. cap. 13. Is that peace and security both

for Life and Goods, which the King promisseth to all his Subjects, or others taken to his Protection. See Suit of the King's Peace. This point of policy seemeth to have been borrowed by us from the Feudists, which in the second Book of the Feuds, cap. 53. entitled *De pace tenenda*, &c. Hotoman proveth. Of this Hoveden setteth down divers Branches, par. poster. suorum annal. in H. 2. fol. 144. & 430. There is also Peace of the Church, for which see Sanctuary. And the Peace of the King's High way to be free from all Annoyance or Molestation. See Warling Street. The Peace of the Plough, whereby the Plough and Plough-Cattel are secured from Distresses; for which see F. N. B. fol. 90. So Fairs may be said to have their Peace, because no man in them may be troubled for any Debt else-where contracted. See Fairs.

Pectorell, 14 Car. 2. cap. 3. Armor for the Breast, a Breast-plate, derived from *Pectus*, a Breast.

Peculiar, In French Peculier, that is, proper; it signifies a particular Parish, or Church, that hath Jurisdiction within itself, for probat of Wills, &c. exempt from the Ordinary, and the Bishops Courts. The King's Chappel is a Royal peculiar, exempt from all Spiritual Jurisdiction, and reserved to the Visitation and immediate Government of the King himself, who is Supreme Ordinary. It is an ancient Privilege of the See of Canterbury, that wheresoever any Mannors or Advowsons do belong to it, they forthwith become exempt from the Ordinary, and are reputed *Peculiaris*, and of that, see Canterbury.

Pecunia, Properly Money, but was anciently used for Cattel, and sometimes for other Goods as well as Money; So we find often in *Doomsday*, *Pastura ibidem ad pecuniam villæ*, that is, Pasture-Ground for the Cattel of the Village. And in *Emendat. Willielmi primi ad Leg. Edw. Conf. Intenti finis etiam ut nulla viva pecunia vendatur, aut emanat nisi infra Civitates & hoc ante 3. fideles testes, Et Leg. Ed. Conf. cap. 10. Qui habuerit 30. denariatus viva pecuniæ.*

Pea, Mons, A Hill. Doomsday.

Pedage, Pedagium, Signifies Money given for the passing by Foot or Horse through any Country, *Papilla oculi*, part. 9. cap. 7. *Pedagia dicuntur que dantur à transeuntibus in locum constitutum à principe*, says Spelman, *Et capiens pedagium debet dare saluum conductum, & territorium ejus tenere securum.* So Baldus. Cassan. de consuetud. Bur. pag. 118. hath these words, *Pedagium à pede dictum est, quod à transeuntibus solvitur, &c.*

Peers, Pera, Is a Fortresse made against the Force of the Sea, for better security of Ships that lye at Harbor in any Haven; so is the *Peers of Dover* described, Camd. Brit. pag. 259. See 14 Car. 2. cap. 27.

Peerage, The Dignity of the Lords or Peers of the Realm; also an Imposition for the Maintenance of a Sea-Peer,

Peeres, Pares, Signifie in our Common Law those that are impanelled in an Enquest upon any man, for the convicting or clearing him of any Offence for which he is called in question; and the reason thereof is, because the course and custom of our Nation is to try every Man in

uch case by his Equals or *Peers*, *Westm.* 1. cap. 6. So *Kitchin* useth it, fol. 78. in these words, *Mais si le americiement soit assure per pares*. And this word in this sense is not in use with us only, but with other Nations also. For *Pares sunt convassalli quorum sententia vassallus propter feloniam est condemnatus*, *Bartilayus de Regno*, lib. 4. cap. 2. *Et pares sunt qui ab eodem Domino feudum tenent*, lib. 1. *Feudor.* cap. 26. But this word is most principally used for those that be of the Nobility of the Realm, and Lords of the Parliament, *Stamf. pl. cor. lib.* 3. cap. *Trial per les Peers*, the reason whereof is, that although there be a distinction of degrees in our Nobility, yet in all publick Actions they are equal, as in their Votes in Parliament, and in passing in Trial upon any Nobleman, &c. This appellation seems to be borrowed from France, and from those twelve *Peers* that *Charlemaine* instituted in that Kingdom; of whom you may read *Vincent. Lupanus de Magistr. Francie*, lib. 1. cap. *Pares Francie*. And though we have borrowed the Appellation, and applyed it with some reason to all Lords of Parliament, yet we have no set number, for our Nobles may be more or less, as the King pleaseth.

Pegen. See *Forath*.

Peune fort & dure. See *Payne fort & dure*.

Pelfe, Pelfra, Tho. Venerables *Ar. Clamat*, *Quod si aliquis tenent. sive resident. infra Dominium sive Manerium de Kinderton feloniam fecerit & corpus ejus per ipsum Thomam suu factum illud caput & convict. fuerit, habere pelfram, viz. Omnia bona & catalla hujusmodi seiscire*, *Plac. in itin. apud Cestr.* 14 H. 7.

Pellicia, A Pilch, Tunica vel indumentum pelliceum hinc *super-pelliceum*, A *Sur-pilch* or *Surplise*, *Spelm.*

Pellora, French Pelote, The ball of the Foot, *Charta de Foresta*, cap. 7. *Talis autem expeditatio (viz. canum,) fiat per assam communiter usitatam, viz. quod tres ortelli abscondantur, sive pellora de pede anteriori*. See *Co. Inst. part 4. fol. 308*.

Pelt-wooll, Is the wooll pulled off the Skin of dead sheep, *8 H. 6. cap. 22*.

Penigeldum, Denarii aliquis ex quavis consuetudine pro facultate aliqua vel privilegio habendo putata in foresta aut alibi, *Spelm. Gloss.*

Penistons, A kind of coarse woollen Cloth mentioned *43 Eliz. cap. 10*.

Penne. See *Baye*.

Pennon, 11 R. 2. cap. 1. Is a Standard, Banner or Ensign, carried in War: It is borrowed from France, for *Pennon* in the French Language signifies the same thing.

Pension, Pensio. That which in the two Temples is called a *Parliament*, and in *Lincolns Inn*, a *Council*, is in *Graves-Inn* termed a *Pension*; that is, an Assembly of the Members of the Society to consult of the Affairs of the House. And in the Inns of Court, *Pensions* are certain annual payments of each Member to the House.

Pension-writ, When a *Pension-writ* is once issued, none sued thereby in an Innes of Court, shall be discharged or permitted to come into Commons, till all Duties be paid. Order in *Graves-Inn*; wherein it seems to be a peremptory

Order against such of the Society as are in arrear for *Pensions*, and other Duties.

Pensioners, Pensionarii, Are a Band of Gentlemen so called, that attend as a Guard upon the King's Person: They were instituted Anno 1539. and have an allowance of fifty pound a year to maintain themselves and two Horses for the King's Service. See *Stow's Annals*, 973.

Pentecostalls, Pentecostalia, Were certain pious Oblations made at the Feast of *Pentecost* by Parishioners to their Parish-Priest, and sometimes by inferior Churches or Parishes to the principal Mother-Church. Which Oblations were also called *Whitsun Farthings*, and were divided into four parts, one to the Parish-Priest, a second to the Poor, a third for repair of the Church, and a fourth to the Bishop. *Stephens of Procurations and Pentecostalls*.

Peny, Was our ancient currant Money, *2. Inst. fol. 575*. In a Charter of *H. 7.* to the Abbot and Covent of the Church of *St. Peter in Westminster*, dated the Nineteenth year of his Reign, we read, *Et quod sint quieti de omnibus misericordis & Warda, & Ward peny, Aver-peny, & Hundred-peny, Tything-peny, & Borthal peny, & de omnibus operibus castellorum, pontium, &c.*

Pepper, Piper, Is a Spice well known, of whose diversities and nature you may read *Gerard's Herbal*, lib. 3. cap. 146. This is set among Merchandise to be garbled, Anno 1 Jac. cap. 19.

Per cui et post. See *Entry*.

Perambulation of the Forest, Perambulatio Foresta, Is the surveying or walking about the Forest, or the Limits of it, by Justices, or other Officers thereto appointed, to set down the Metes and Bounds thereof, and what is within the Forest, and what without, *17 Car. 1. cap. 16. 20 Car. 2. cap. 3. 4. Inst. fol. 30. See Parliem.*

Perambulatione facienda, Is a Writ that is sued out by two or more Lords of Mannors lying near one another, and consenting to have their Bounds severally known. It is directed to the Sheriff, commanding him to make *perambulation*, and to set down their certain Limits, *F.N.B. fol. 133. See Rationabilibus divisio. See Reg. Orig. fol. 157. and the New Book of Entries, verbo Perambulatione facienda.*

Peravayle. See *Paravayle*.

Perch, Pertica, Is used with us for a Rod or Pole of sixteen foot and a half in length; whereof forty in length and four in breadth make an Acre of Ground, *Crompt. Jur. fol. 222*. Yet by the Custom of the Country it may be longer, as he there saith; and several Counties differ herein, for in *Staffordshire* it is twenty four foot, in the Forest of *Sherwood* twenty five. In *Herefordshire* a perch of Walling is sixteen foot and a half: a perch of Ditching twenty one foot: In the Forest of *Canke* twenty five: in the Forest of *Clarendon* twenty, &c. *Skene de verbor. Signif. verbo Particata terræ*, saith, That *Particata terra* is a Rood of Land; and a little after to this effect, Three Barley-corns without tayls set together in length make one inch; of the which Corns, one should be taken off the middle ridge, another off the side of the ridge, and one off the furrow: Twelve inches make a foot of measure, three foot and

and an Inch make an Elln, six Elnes make one Fall, which is the common lineal Measure; and six Elnes long and six broad make a Square, and superficial Fall of Land measured. And it is to be understood, that one Rod, one Raip, one lineal fall of Measure, are all one, each of them containing six Elns in length; Howbeit a Rod is a Staff or Pole of Wood, a Raip is made of Tow or Hemp, and so much Land as falleth under the Rod or Raip at once, is called a *Fall of measure*, or a *lineal fall*, because it is the measure of the line or length only; like as the superficial fall is the measure of length and breadth. *Item*, ten falls in length and four in breadth make a Rood, four Roods make an Acre, &c. This is the measure of Scotland.

Perdonatio uilagarie, Is a pardon for him, who for contempts in not coming to the King's Court, is Out-lawed, and afterwards, of his own accord, yieldeth himself to prison, *Reg. Judicial*, fol. 28. *Leg. Edw. Confess.* cap. 18. & 19.

Pere & pite, In the Constitutions of *Canutus* concerning the Forest, cap. 17. We have these Words, *Si quis autem contra primum pugnauerit, in placito emendet secundum pretium sui ipsius quod Angli Pere & pite dicunt & soluat. primo 40. fol.* See *Were*.

Peremptory, *Peremptorius*, Cometh of the Verb *perimere*, to cut off, and joyned with a Substantive (as *Action* or *Exception*) signifies a final and determinate Act, without hope of renewing or altering. So *Fitzherbert* calleth a *Peremptory Action*, *Nat. Brev. fol.* 35. 38. 104. 108. and *Non-sute peremptory*, *Idem. fol.* 5. 11. A *peremptory exception*, *Bracton*, lib. 4. cap. 20. *Smith de Rep. Anglor.* lib. 2. cap. 13. calleth that a *Peremptory exception*, which makes the State and Issue in a Cause.

Perinde valere, Is a term that belongs to the Ecclesiastical Law, and signifies a Dispensation granted to a Clerk, that being defective in his capacity to a Benefice, or other Ecclesiastical Function, is *defacto*, admitted to it, and it hath the Appellation from the Words, which make the faculty as effectual to the party dispensed with, as if he had been actually capable of the thing for which he is dispensed with at the time of his Admission, 25 *Hen. 8. cap.* 21. It is called a *Writ*.

Perjury, *Perjurium*, Is a Crime committed, when a lawful Oath is ministred by any that hath Authority to any Person in any judicial proceedings, who swearing absolutely and falsly in a matter material to the Issue, or Cause in question, either of their own accord, or by the subornation of others. And if a man call me *perjur'd Man*, I may have my Action upon the Case, but for calling me a *forsworn Man*, no Action lies, *Co. Inst.* 3. par. fol. 163. 23 *H. 8. 3.* It is excepted out of the Act *Of General Pardon*, 12 *Car. 2. cap.* 8. How it is punished in *Wales*, see 26 *H. 8. 4.* and 5 *Eliz. cap.* 9.

Perkins, Was a learned Lawyer, a Fellow and Benchor of the Inner Temple, that lived in the dayes of *Edward the Sixth* and *Queen Mary*. He wrote a very excellent Book upon divers points of the Common-Law.

Per my et per tout, A Joynt-Tenant is said to be seised of the Land that he holds Joyntly *Per my & per tout*; that is, he is seised by every parcel, and by the whole, *Litt. Tenures*, sect. 281.

Permutatione Archidiaconatus & Ecclesie eidem annexæ cum Ecclesia et præbenda, Is a Writ to an Ordinary, commanding him to admit a Clerk to a Benefice, upon exchange made with another, *Reg. Orig. fol.* 307.

Pernor, of profits, Is derived of the French *Prenuer*; a Taker or Receiver is he that takes or receives the profits, as *Pernor of profits*, 1 *H. 7. 1. Pernor of profits*, and *Cestuy que use*, is all one, *Co. Rep.* 1. fol. 123. *Chudley's Case*. See 21 *R. 2. cap.* 15. and *Co. on Lit. fol.* 589. b.

Pernancy, A taking or receiving Tythes in *Pernancy*; that is, Tythes taken, or that may be taken in kind.

Per que serbitia, Is a Writ Judicial, issuing from the Note of a Fine, and lyeth for Cognisee of a Mannor, Seignior, chief Rent, or other Services, to compel him that is Tenant of the Land at the time of the Note of the Fine levied, to attorn unto him, *West Symbol.* part 2. tit. *Fines*, sect. 126. *Old Nat. Brev. fol.* 155. *New Book of Entries*, verbo *Per que serbitia*.

Peaquisite, *Perquistum*, Is any thing gotten by a Man's own Industry, or purchased with his own Money, different from that which descends to him from his Father or Ancestors; and so *Bracton* uses it, when he sayes, *Perquistum facere*, lib. 2. cap. 30. num. 3. & lib. 4. cap. 22.

Perquisites of Court, Bethose profits that grow to a Lord of a Mannor, by vertue of his Court Baron, over and above the certain yearly profits of his Land, as Fines of Copy holds, Harlots, Amerciaments, Waifes, Strayes, &c. *Perkins*, fol. 20, 21.

Person. See *Parson*.

Personable, *Personabilis*, Signifies as much as enabled to maintain plea in Court: As for Example, The Defendant was judged personably to maintain this Action, *Old Nat. Brev. fol.* 142. And in *Kitchin*, fol. 214. The Tenant pleaded, That the Wife was an Alien born in *Portugal*, without the Legiance of the King, and Judgment was demanded, whether she should be answered: The Plaintiff saith, She was made personable by Parliament, that is, as the *Civilians* would speak it, *Habere personam standi in judicio*. Personable is also as much as to be of capacity to take any thing granted or given, *Plowden*, fol. 27. *Coltbirss's Case*.

Personal, *Personalis*, Being joyned with the Substantives, Things, Goods or Chattels, as Things personal, Goods personal, Chattels personal; signifies any moveable thing belonging to a man, be it quick or dead: So is it used in *West Symbol.* part 2. tit. *Enditements*, sect. 58. in these Words; Theft is an unlawful felonious taking away another Man's moveable personal Goods, so also 61. And *Kitchin*, fol. 139. saith, Where personal things shall be given to a Corporation, as a Horse, a Cow, Sheep, or other Goods, &c. And *Stamf. pl. cor. fol.* 25. *Contrahatio rei aliena*, is to be understood of things personal; for in things real it is

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not

not Felony, as the cutting of a Tree is not Felony. See *Chattels*.

Personal Tythes. Are Tythes paid of such profits as come by the labor of a Man's Person, as by buying and selling, gains of Merchandise and Handicrafts, &c. See *Tythes*.

Personalty, Personalitas, Is an Abstract of Person. The Action is in the Personalty, *Old Nat. Brev. fol. 92.* that is to say, it is brought against the right Person, or the Person against whom in Law it lies. In vocabulario utriusque juris, I find the word *impersonalitas*; For sayes that Author *Personalitas significatur per has dictiones, (tu mihi, ego tibi) cum alio significato quod probabiliter concluditur, & si nullo modo concludatur tunc est impersonalitas.*

Persons ne Prebendaries ne seront chargees as quintines, &c. Isa Writ that lyes for Prebendaries; or other spiritual Persons, being distrained by the Sheriff, or Collectors of Fifteens, for the Fifteenth of their Goods; or to be contributory to Taxes, *E. N. B. fol. 176.*

Perticata terra, Is the fourth part of an Acre, which in the whole Superficies contains forty Perticas. See *Pertches*.

Perticulas, The King granted to *Luke Margin* de insula de *Man* Scholaris, quandam elemosynam vocatam *Perticulas* ad sustentationem eiusdem pauperis Scholaris de insula predicta ad exercendam. Scholas, per progenitores nostros, quondam Reges Angliæ datam & concessam, *Pat. 5. Hen. 4. m. 16.*

Pertinens, Was anciently used for a Kinsman or Kinswoman, *Si quis cum pertinente sua jaceat, emendet hoc secundum cognitionis modum sit Werd, sit Wita, sit omni pecuniâ, Leg. Canuti Regis M. S. cap. 48.*

Parvise or Parvise, Pervisus, Parvisia, Is derived from the French *Le parvis.* *Fortescue. de Laudibus legum Angliæ, cap. 51. pag. 124,* hath these words, *Sed tunc placitantes (i. post meridiem) se divertunt ad pervisum & alibi consulentes cum servientibus ad legem & aliis consiliariis suis.* Of which *Chaucer* thus, *Prolog. 9.*

A Serjeant at Law, ware and wise,
That often had been at the Parvise.

Nam ibi Legis periti convenere ut clientibus occurrerent, non ad tyrocinia juris, quas motas vocant exercenda, sayes Spelman. Selden in his Notes on Fortescue, pag. 56. sayes, It signifies an Afternoons Exercise or Moot, for the Instruction of young Students, bearing the same Name originally with the *Parvisia* in *Oxford.* Mr. *Somner* sayes, *Pervise* signifies *Palatii Atrium* vel *Area* illa a fronte *Aule Westm. bodie,* the Palace-yard. See his *Gloss. in 10. Scriptores, verbo Trisorium.*

Pes Forestæ, — Notandum est quod pes forestæ usitatus tempore Ric. Oysell in arrentatione vastorum, factus est, signatus & sculptus in pariete Cancellæ Ecclesiæ de *Edwinstone* & in Ecclesiâ B. Mariæ de *Nottingham,* & dictus pes continet in longitudine octodecem pollices, & in arrentatione quorundam vastorum pertica 20, 21. & 24. prædictum usa fuit, &c. Ex *Regist. Abb. de Novo-loco* in *Com. Not. penes Rob. Conititem Kingstonia,* Anno 1630. See *Spelman* eodem verbo.

Pesage, Pesagium, A Duty paid for the weighing of Merchandise, and other Wares, we may, without any straying, draw *Poisage* or *Wopling* for *Pondus,* and to *Peise* or *Poise* for *ponderare.*

Pessona, Mast, Or, according to *Bracton,* the Money taken for *Mast,* or feeding of Hogs; in the first signification, *Tempore pessonæ* denotes *Mast-time,* or the Season when *Mast* is ripe, which in *Norfolk* they call *Shacking time.*

Pesturable Wares, Seem to be such Wares or Merchandise as *pester* and take up much room in a Ship, *32 H. 8. cap. 14.*

Peter's Coyn, *Rex Athelstanus concessit Deo & beato Petro Ebor, & solidis predictis de qualibet Caruca arante in Episcopatu Eboraci unam Travam bladi, Anno Domini 936. quæ usque in præsentem diem dicitur Peter's Coyn.* Ex *Reg. S. Leonardi Ebor. in Bibl. Cottoniana, fol. 5. a.*

Peter's Pence, Denarii Sancti Petri, otherwise call'd in the Saxon Tongue *Romefeob,* the Fee of *Rome,* or due to *Rome;* and also *Romefscot* and *Rome-pennyng* was a Tribute given by *Inas* King of the *West Saxons,* being in Pilgrimage at *Rome* in the Year of our Lord, 720. which was a penny for every House, *Lamb. Explication of Saxon Words, verbo Nummus, and fol. 128. in St. Edward's Laws, num. 10.* where we may read these Words, *Omnes qui habent 30. denariatus vivæ pecuniæ in domo sua de suo proprio, Anglorum lege dabit denarium sancti Petri, & lege Danorum dimidiam marcam; Iste verò debet summoniri in solenitate Apostolorum Petri & Pauli et Colligi et festivitatem quæ dicitur ad vincula, ita ut ultra illum diem non detineatur, &c.* See also *King Edgars Laws, fol. 78. cap. 4* which contain a sharp constitution touching this matter. *Stow* in his *Annals, pag. 67.* saith, That he had twenty penny-worth of Goods of one sort in his House, was to give a Penny at *Lammas* yearly. See *Romefscot.*

St. Peter ad vincula, Anno 4. Ed. 4. cap. 1. & 17. Ed. 4. cap. 5. See *Gule of August.*

Petit rape. See *Cape.*

Petit Larceny, Parvum Latrocinium. See *Larceny.*

Petit Treason, Parva prodition, In French Petit trahison, i. prodition minor, Treason of a lesser or lower Kind; for whereas *Treason* in the highest Kind, is an Offence done against the security of the Commonwealth, *West Symbol. part 2. tit. Indictment, sect. 63.* So is *Petit Treason,* though not so expressly. *Petit Treason* is, If a Servant kill his Master, a Wife her Husband, a secular or religious Man his Prelate, *25 E. 3. ca. 2* whereof see more in *Stamf. pl. cor. lib. 1. cap. 1. Crompton's Justice of Peace, fol. 2.* And for the punishment of it, see the Statute *22 H. 8. 14. and Cromp. ubi supra.*

Petit Sergeanty, Parva Sergeantia; To hold by *Petit Sergeanty,* is to hold Lands or Tenements of the King, yielding him a Knife, a Buckler, an Arrow, a Bow without a String, or other like Service, at the Will of the first Feoffer; and there belongs not Ward, Marriage or Relief; And here observe, That none can hold by *Grand* or *Petit Sergeanty,* but of the King. But see the Statute *Car. 2. ca. 24.*

Petition

Petition, Petitio, Hath a general significati-
on for all kinds of Supplications made by an In-
ferior to a Superior, and especially to one ha-
ving Jurisdiction and Authority. See *Stamf. pr. ar.*
cap. 15. 22.

Petra, Is a sort of Weight, we call it a Stone,
but differing in many Places of England; some-
where consisting of 16, other where of 14, 12, or
8 pound.

Petra Lanæ, A Stone of Wooll. See *Stone.*

Petty fogger, An irregular Compound, from
the French *Petite*, small; and the Saxon *Fogger*,
a Suitor or Solicitor: So that a *Petty fogger* is an
Inferior Attorney or Lawyer, or rather a Trol-
ble-Town, having neither Law nor Conscience.

Pharos, A Watch-Tower; no Man may
build or erect any Light-houses, Phares, Sea-marks
or Beacons, without lawful Warrant and Autho-
rity, 3. *Inst.* fol. 204.

Philizer. See *Filacer.*

Picaros, A sort of Boats of fifteen Tun, of
upwards, used on the River of Severne, mentio-
ned 34 & 35 H. 8. ca. 3. Also a Fisher-boat, 13
Elix. 11.

Picrage, Piccagium, From the French *Piquer*,
effodere; Money paid in Fairs, for breaking of
the Ground to set up Booths or Stalls, *Aliquis ve-
niens ad forum nostrum de Rudbam cum rebus ejus & fran-
gendo vel picando aliquam placeam in dicto foro, Prior ha-
bebit inde redemptionem. Ex Registro Priorat. de Cokes-
ford.*

Pickards, No Person shall use any Iron Cards
or *Pickards* in rowing any Wollen Cloth, upon
pain to forfeit the same, and 20s. for every Of-
fence, Anno 3 & 4 E. 6. ca. 2.

Picte alias Pightell, Picellum, A small par-
cel of Land inclosed with a Hedge, which the
common People of England do in some Places call
a *Pingle*, and may perhaps be derived from the
Italian Word *Picciola*, i. parvus.

Pie-powder Court, Curia pedis pulverizati,
From the French *Pied*, i. pes, and *Pouldreux*, i. Pul-
verulentus: Is a Court held in Fairs, to yield Ju-
stice to Buyers and Sellers, and for Redress of all
Disorders committed in them; and so called, be-
cause they most usually are in Summer, and the
Suiters commonly are Countrey-People with
dusty Feet; or from the expedition intended, in
the hearing of Causes proper thereunto before
the dust goes off the Plaintiffs or Defendants feet;
it is held *De hora in horam. Skene de verbor. Signif.*
verbo Pede-pulverosus, sayes the word, signifies a
Vagabond; especially a Pedler, which hath no
place of dwelling, and therefore must have Justice
summarily administered to him, viz. within three
ebbing and three flowing of the Sea. *Bracton*, lib.
5. tract. 1. cap. 6. num. 6. calleth it *Justitiam pe-
poudrous*. Of this Court, read the Statute 17 E. 4.
ca. 2. Co. 4. *Inst.* fol. 272. and *Crompt. Jur.* fol. 221.
See *Justices of the Pavilion.*

Pig of Lead. See *Fother.*

Pike or Picke. See *Polein.*

Pille of Foddoy or Fouldoy, In the
County-Palatine of Lancaster, Anno 2 H. 6. ca. 5.
seems to be a Defence built on a Creek of the

Sea, and call'd *Pille* by the Name of the Country
for a *Pile*. This Pile was erected there by the Ab-
bot of *Forneste*, in the first year of Ed. 3. Cam. Brit.
Rex — *Dedimus Henrico Comiti Northumberland*
insulam, castrum, Petam & Dominium de Man &c. Rot
Pat. i Hen. 4. m. 36.

Pillory, Collistrigium, As it were *Collumstrin-
gens*, and *Pillorium*, from the French *Pelori*, and
that may seem to be derived from the Greek
πύλον, Janua, a Door, because one standing on the
Pillory, puts his Head, as it were, through a
Door, and *Opido video*: It is an Engine of Wood
made to punish Offenders. There is a Statute
made of the Pillory, 51 H. 3. wherein you may
see, who were then subject to this punishment:
This, among the Saxons, was called *Healsfang*, of
Heals, a Neck, and *sang*, to take. Lamb Explication
of Saxon Words, verbo *Multra*. In the Laws of Ca-
nutus it is call'd *Halsfang*, cap. 42. The learned
Spelman in his Glossary sayes, that it is *Supplicii machina
ad ludibrium magis quam penam*. See more there. Vide
etiam *Healsfang*.

Pileus suppositationis, A Cap of Mainte-
nance; Pope Julius sent such a Cap with a Sword
to Hen. 8. An. 1514. *Hollinsb.* pag. 827. but there is
mention made of such a Cap by *Hoveden* pag. 656.
at the Coronation of Richard the First, where it
is said, — *Deinde venerunt Godofridus de Luci por-
tans pileum Regium & Johannes Marefcallus juxta eum
portans duo calcarea aurea, &c.*

Pinsinochium, A Bake-house, *Locus pinsandi
ubi panes conficiunt*, The Book of St. Albans in the
Life of Paul the fourth Abbot there, sayes, *Iste
hanc Ecclesiam cateraque adificia, prater Pistrinam et Pin-
sinochium reedificavit ex Lapidibus et tegulis veteris civi-
tatis Verolamii, &c.* by which it seems that many of
the Ruines of that ancient City remained until
that Abbots time, who dyed Anno 1093.

Pioneres, Cometh of the French *Pionier*, i.
fessor, and signifieth such Laborers, as are taken
up for the King's Army, to cast Trenches, and un-
dermine Forts, 2 & 3 E. 6. ca. 20.

Pipe, Pipa, Is a Roll in the Exchequer, other-
wise called *The great Roll*, Anno 37 E. 3. cap. 4. See
Clerk of the Pipe. It is also a Measure of Wine or
Oyl, containing half a Tun, that is, six score and
six Gallons, 1 R. 3. 3.

Pirata, A Pirate, Is now taken for one who
maintaines himself by Pillage and Robbing at Sea.
But in former times the word was used in a bet-
ter sense, being attributed to such Person to
whose Care the Mole or Peer of a Haven was in-
trusted. And sometimes for a Sea-Soldier, *As-
ser. Menevens. Epist. in vit. Alfrede* — *Rex Al-
fredus jussit cymbas et galeas, i. longas naves fabricari per
Regnum, ut Navali prelio hostibus adventantibus obvian-
ret: Impositisque piratis in illis, vias maris custodiendas
commisit.*

Piscary, Piscaria, Cometh of the French *Pes-
chary*, i. *Piscatio*, and denotes a liberty of fishing in
another Man's Waters.

Pitell alias Pightell. See *Picte*.

Pitt, It is a Hole wherein the Scots use to
drown Women-Theeves, *Skene*.

Pittrance, Pitancia, A small repast of Fish or
Flesh, *Rot. Char. de Anno, 1 Reg. Joh.* pag. 2.
num. 115. *Johannes Dei Gratia, &c. Noverit, &c.*

nos assensum nostrum praeiussit, &c. de Manerio de Milde-Hall, quod Manerium sancto Edmundo sicut jus suum concegitur, &c. ita quod, qui pro tempore Sacrista fuerit, 12. de redditu altaris annuatim persolvat Hospitali S. Salvatoris quod est extra muros Sancti Edmundi, &c. in usus pauperum, &c. & 40s. ad refectorem Monachorum, qui illis diebus Officia divina pro defunctis celebrant, quae refectio pittania vocatur. See Spelman verb. Pittanciarum.

Pitching pence. Is that Money which is paid for pitching or setting down every Sack of Corn, or pack of any other Merchandise in Fairs or Markets.

Placard, Anno 2 & 3 P. & M. cap. 7. Is a Licence, whereby a Man is permitted to shoot in a Gun, or use unlawful Games: In French it signifies a Table, where Orders are written, and hung up; and **Placcaert** in Dutch is an Edict or Proclamation. See 33 H. 8. 6.

Placeta, Seems to signify a piece or parcel, if of Lands; and a place, if a House or Messuage; as **Placeta Mesuagii**, **Placeta Patri**, and **Placeta Pasturae**.

Playnt, Querela, Is used for the propounding or exhibiting of any Action personal or real in writing, and so it is used, Bro. tit. *Playnt in Assise*; and the party making this *Playnt*, is called *The party Plaintiff*, *Kitchin*, fol. 231.

Plate, A Hoy, or Water-Vessel so called, *An. no 13 Eliz. cap. 15.*

Plea, Placitum, Signifies that which either party alledgeth for himself in Court, which was wont to be done in French from the Conquest until Edward the Third, who Ordained them to be done in English in the six and thirtieth year of his Reign, cap. 15. These are divided into Pleas of the Crown and Common-Pleas. Pleas of the Crown of Scotland be four, viz. Robbery, Rape, Murder and wilful Fire, *Skene de verb. Signif. verbo Placitum.* With us they be all Suits in the King's Name, against Offences committed against his Crown and Dignity, *Stamf. pl. cor. cap. 1.* Or against his Crown and Peace, *Smith de Rep. Angl. lib. 2. cap. 9.* And those seem to be Treasons, Felonies, Misprisions of either, and Mayhem, *Co. 4. Inst. cap. 10.* Edward the First enfeoffed Walter de Burgo in the Land of Ulster in Ireland, excepting the Pleas of the Crown, to wit, Rape, Homicide, wilful Firing and Treasure trove, *Camd. tit. Ireland.* Common-Pleas be those that be held between common Persons; yet by the former definitions they must comprise all other, though the King be a party. Plea may farther be divided into as many Branches as Action; which see, for they signify all one. Then is there a foreign Plea, whereby Matter is alledged in any Court, that must be tryed in another. As if one should lay Bastardy to another in Court-Baron, *Kitchin*, fol. 75. The Word **Placitum** is used by the Commentators upon the Feuds in the same signification that Pleas be with us, and placitare with them is Litigare & causas agere, *Hotom. in verb. Feudal. verb. Placitare.*

Pleas of the Sword, Placita ad gladium: Ranulph the third Earl of Chester, in the Second year of Henry the Third, granted to his Barons of Cheshire an ample Charter of Liberties, *Exceptis*

placitis ad gladium meum pertinentibus, &c. Rot. Pat. in archivis Regis infra castellum Cestria, 3 E. 4. m. 9. The Reason was, because King William the Conqueror gave the Earldome of Chester to his Kinsman Hugh, commonly called Lupus, Ancestor to this Earl Ranulph, Tenere ita libere per gladium, sicut ipse Rex Willielmus tenuit Angliam per Coronam. And consonant thereunto in all Indisements for Felony, Murder, &c. in that County Palatine, the form was anciently, *Contra pacem Domini Comitis, Gladium & dignitates suas.*

Pleadings, Are all the sayings of the parties to Suits after the Count or Declaration, to wit, whatever is contained in the Bar, Replication and Rejoinder, and not in the Count itself; and therefore Defaults in the matter of Count are not comprised within mispleading, or insufficient pleading, nor are remedied by the Statute of Jeofayles, 32 H. 8. but onely the mispleading or insufficient pleading committed in the Bar, Replication and Rejoinder; but those are now remedied also by 18 Eliz. ca. 13.

Pledge, Plegius, May be derived from the French *Pleige*, *fide jussor*, as *Pleiger aucum*, *fide juberé pro aliquo*, in the same signification is *Plegius* used by Glanville, lib. 10. cap. 5. and *Plegiatio* for the act of Suretiship in the Interpreter of the Grand Customary of Normandy, cap. 60. *legii dicuntur personae, quae se obligant ad hoc, ad quod qui eos mittit, tenebatur*; And in the same Book, cap. 89, 90. *Plegiatio* is used in the same Sense with Glanville, *S alvi plegii* be used for *plegii*, *Pupil. oculi. part. 3. cap. 22. Charta de Foresta.* This Word *plegius* is used also for Frank pledge sometime, as in the end of William the Conqueror's Laws, set out by Lambert in his *Archienom.* fol. 125. in these Words, *Omnis homo qui voluerit se teneri pro libero, sit in plegio, ut plegius eum habeat ad justitiam, si quid offenderit, &c.* And these be called Capital pledges, *Kitchin*, fol. 10. See Frank-pledge, and *Co. 4. Inst. fol. 180.*

Plegius acquietandis, Is a Writ that lies for a Surety, against him for whom he is a Surety, if he pay not the Money at the day, *F. N. B. fol. 137. Regist. of Writs*, fol. 158.

Plena satisfactione & plena vita. See *Forfeiture*.

Plenary, Is an Abstract of the Adjective *Plenus*, and is used in the Common-Law in matters of Benefices, where *Plenary* and *Vacation* are direct contraries, *Stamf. praerog. cap. 8. fol. 32. Westm. 2. cap. 5.* Institution is a good *plenary* against a common Person, but not against the King without induction, *Co. on Lit. fol. 344.*

Plevin, Plevina, from the French *plevine*, A Warrant or Assurance. See *Replevin*.

Plite of Lawne, Anno 3 E. 4. ca. 5. Seems to be a Measure then in use, as a Yard or an Ell now.

Plonkets. 1 R. 3. ca. 8. A kind of coarse wollen Cloth, otherwise call'd *vervise*.

Plow-Almes, Elemosinae aratrales, Anciently every Plow-Land paid a penny to the Church, — *De qualibet caruca juncta inter Pascham & Pentecosten, unum denarium, qui dicitur Plow-Almes, Mon. Ang. 1. par. fol. 256.*

Plow-Land, Carucata terra, The same with a Hide of Land, which see.

Pluraliter,

Pluralty, *Pluralitas*, 21 Hen. 8. cap. 13. The having more than one, chiefly applied to some Church-men, who have two, three or more Benefices. Selden in his *Titles of Honor*, fol. 687. mentions *Triality* and *Quadrality*.

Pluries, Is a Writ that goeth out in the third place, after two former Writs have had no effect; for first the original *Capias* issues, and if that speed not, then goeth out the *Alias*, and if that also fail, then the *Pluries*. See *Nat. Brev. fol. 33.* in the Writ *De Excom. capiendo*. See in what diversity of Cases it is used in the Table of the *Original Register*.

Pocket of Wooll, Is half a sack, 3. *Inst. fol. 96.* See *Sack of Wooll*.

Pole, See *Perch*.

Poledavis, A kind of coarse Canvas used by the Salesmen, in making up their Ware, 1 *Jac. cap. 24.*

Polaine, Was a sort of Shooe, sharp or picked, and turned up at the Toe; They first came in fashion in the Reign of *William Rufus*, and by degrees came to be of that excessive length, that in *Richard the Second's* time they were tyed up to the Knees with Gold or Silver Chains, according to the dignity of the Wearer: They were forbidden by *Edward the Fourth*, in the fifth year of his Reign, under a great penalty, to be worn so long: but were not utterly laid aside till the Reign of *Henry the eighth*. *Malmesbury*, in the Life of the fore-mentioned *William Rufus*, speaking of the Excesses of those times hath these Words, *Tunc fluxus crinium, tunc luxus vestium, tunc usus calceorum cum arcuatis aculeis inventus est.*

Policy of Assurance, *Affecratio*, Is a course taken by those who do adventure Wares or Merchandise to Sea, whereby, they unwilling to lose the whole adventure, do give unto some other a certain rate or proportion, as ten in the hundred, or such like, to secure the safe arrival of the Ship, and so much Wares at the place agreed upon; So that if the Ship and Wares do miscarry, the Assurer maketh good to the Adventurer so much as he promised to secure; if the Ship arrive safely, he gaineth that clearly which the Merchant compoundeth to pay him. And for the more even dealing between the Merchant and the Assurer in this Case, there is a Clerk or Officer Ordained to set down in writing the sum of their Agreement; and this is called *Policy*, to prevent any difference that might after happen between them. This is mentioned 43 *Eliz. cap. 12.* and 14 *Car. 2. cap. 23.* And is now many times used to insure Mens lives in Offices, who have paid great Sums of Money for the purchase thereof, and are insured from that Adventure by a certain Company of Merchants or Citizens, for three or four per cent. subscribing or underwriting the Agreement, *Policy* or *Insurance*, who do among them share the *Premium* or Money given, and run the hazard of it.

Pollex, Properly signifies the Thumbe, but metaphorically it signifies an Inch, *Pollex in omni mensura debet mensurari ad radicem unguis & debet stare ex longitudine trium granorum bordei boni sine caudis.* Spelm.

Pollard, A sort of spurious Coyn, which

with *Crocards* were long since prohibited, *Mat. Westm. in An. 1299. pag. 413.* *Pollards*, *Crocards*, *Staldings*, *Eagles*, *Lemmes* and *Steepings*, were heretofore several sorts of Money used in England, but long since disused, 2 *Inst. fol. 577.* We also call those Trees *Pollards* or *Pollengers*, which have been usually cropt, and therefore distinguish from *Timber-Trees*. See *Plowden, fol. 469.*

Pollintoys, The Embalmers of dead Bodies, such as prepare them for their Funeral and Interment, *Ulp. de Inst. Ali. l. quicunque Si libitarius inquit servum pollinctorem habuerit, isque mortuum spoliaverit, dandam in eum quasi actionem institutoriam.*

Polvgamus, Is he that is married to two, or more Wives together, 3. *Inst. fol. 88.*

Pondage. See *Poundage*.

Pone, Is a Writ, whereby a Cause depending in the County-Court, or other inferior Court, is removed in the Common-Pleas, *Old Nat. Brev. fol. 2.* See in what diversity of Cases it is used in the Table of the *Original Register*.

Poll-money, *Capitatio*, Was a Tax Ordained by Act of Parliament, 18 *Car. 2. cap. 1.* & 19. *Car. 2. cap. 6.* By the first of which every Subject in this Kingdom was Assessed by the Head or Poll, according to his degree, viz. every Duke 100 li. every Marquess 80 li. &c. Baronets 30 li. Knight 20 li. Esquire 10 li. &c. and every single Person 12 d. &c. And that this is no new Tax, appears by former Acts of Parliament, where, *Quilibet tam conjungatus, quam solutus utriusque sexus pro capite suo solvere cogebatur*, *Parliam. Anno 1380. Walsingham Ypod. 534.* There was anciently (says *Camden* in his Notes upon *Coynes*) a personal Tribute called *Capitatio* (*Poll-silver*) imposed upon the Poll or Person of every one, of Women from the twelfth, of Men from the fourteenth year of their age.

Pone per Vadium, Is a Writ commanding the Sheriff to take Surety of one for his appearance at a day assigned. Of this see five sorts in the Table of the *Register Judicial*, verbo *Pone per Vadium*.

Ponendis in Affis, Is a Writ founded up on the Statute of *Westm. 2. cap. 38.* and upon the Statute of *Articuli super Chartas*, cap. 9. which Statutes do shew what persons Sheriffs ought to impanel upon *Affes* and *Juries*, and what not; as also what number, which see in *Reg. Orig. fol. 178. F. N. B. fol. 165.*

Ponendum in Ballium, Commanding a Prisoner to be bailed in causes bailable, *Reg. Orig. fol. 133.*

Ponendum sigillum ad exceptionem, Is a Writ, whereby the King willeth the Justices, according to the Statute of *Westm. 2.* to put their Seals to Exceptions laid in by the Defendant against the Plaintiffs Declaration, or against the Evidence, Verdict, or other Proceedings before the Justices.

Pontage, *Pontagium*, Is a Contribution towards the maintenance or re-edifying of Bridges, *Westm. 2. cap. 25. Anno 13 Ed. 1.* It may also signify Toll taken to this purpose of those that pass over Bridges, 39 *Eliz. cap. 24. 1 H. 8. cap. 9. 22 H. 8. cap. 5. Per pontagium clamat*
Ecc

Se quit de operibus pontium, Plac. in Itin. apud Cestriam, 14 H. 7.

Pontibus reparandis, Is a Writ directed to the Sheriff, &c. willing him to charge one, or more, to repair a Bridge, to whom it belongeth, *Reg. Orig. fol. 193.*

Pozta, A Ridge of Land. See *Ridge of Land*.

Pozcarp, *Portaria*, A Swinckly. *Doomsday.*

Porter of the Door in the Parliament House, Is an Officer belonging to that High and Honorable Court, and enjoys the Privileges accordingly, *Cromp. Jurisd. fol. 11.*

Porter in the Circuit of Justices, Is an Officer that carries a white Rod before the Justices in Eyre, so called a *Portando virgam*, Anno 13 Ed. 1. cap. 41. See *Vergers*. There is also a Porter bearing *Verge* before the Justices of either Bench.

Portgreve, *Portgrevis*, In Saxon *Pontgrepepe*, that is, *urbis vel portus prefectus*; Signifies with us a Magistrate in certain Sea-Coast Towns; and as Camden in his *Brit. pag. 325.* saith, The chief Magistrate of London was so called, as appears by a Charter of King William the Conqueror to the same City, in these Words.

William King, Greet William Bishop and Godfry, Portgreve, and all the Burgetts within London, French and English: And I grant you, That I will that you be all your Law-worth that ye were in Edwardis dayes the King: And I will that each Child be his Faders Cper, and I wil suffer, that ony man you any wrongys beed. And God you keep.

In whose stead Richard the First Ordained two Bayliffs, but presently after him King John granted them a Mayor for their yearly Magistrate.

Portioner, *Portionarius*, Where a Parsonage is served sometimes by two, or sometimes by three Ministers alternately: The Ministers are called *Portioners*, because they have but their portion or proportion of the Tythes or Profits of the Living.

Portmen, Anno 13 Eliz. cap. 24. The twelve Burgeses of Ipswich are so called. So also are the Inhabitants of the *Cinque-Ports*, according to Camden.

Portmote, Is a compound of *Porte*, *portus*, and *gemot*, *conventus*, and signifies a Court kept in Haven-Towns, as *Swainemote* in the Forest. It is called the *Portmote Court*, 43 Eliz. cap. 15. *curia portmotorum est curia in civitate Cestria coram majore in aula Motorum tenenda*, Pl. in Itin. Ibid. 14 Hen. 7.

Portsale, Anno 35 H. 8. cap. 7. Is the sale of Fish, as assoon as it is brought into the Haven.

Posse, Is an Infinitive Mood, but used substantively to signifie a Possibility, as we say, such a thing is in *posse*, that is, such a thing may

possibly be; but of a thing in being, we say it is in *esse*.

Possession, *Possessio*, Is two-fold, actual and in Law: actual *Possession* is, when a man actually enters into Lands and Tenements to him descended. *Possession* in Law is, when Lands or Tenements are descended to a Man, and he hath not as yet actually entred into them, *Stamf. pl. cor. fol. 198.* As for example, Before or until an Office be found of Lands escheated by an Attainder, the King hath only a *possession* in Law, and not in Deed, *Stam. prerog. fol. 54. 55.* There is also a Unity of *possession*, which the Civilians call *Consolidationem*. See an example of this in *Kitchin, fol. 134.* If the Lord purchase the Tenancy held by Heriot-service, then the Heriot is extinct by unity of *Possession*, that is, because the Seignior and the Tenancy be now in one man's *possession*: Many other divisions of *possessions* you may read in *Bracton*, lib. 2. cap. 17 per totum.

Post, See *Per*.

Posta, In French *Poste*, a swift or speedy Messenger, *Sic dictus* (saith *Spelman*) *quasi posita, quod in via publica ponitur ad stationem debitam decurrendum.*

Post conquestum, Was first inserted into the King's Title by Edward the Third, Anno 1328. *Claus. 2 Ed. 3. in Dorsio. m. 33.*

Post diem, Is the return of a Writ after the day assigned, for which the *Custos brevium* hath four Pence, where as he hath nothing if it be returned at the Day; sometimes it is taken for the Fee it self.

Post Disseisin, *Post Disseisina*, Is a Writ given by the Statute of *Westm. 2. cap. 26.* and lies for him that having recovered Lands or Tenements by *Præcipe quod reddat*, upon default or reddition is again disseised by the former Disseisor, *F. N. B. fol. 190.* See the Writ that lies for this in the *Register*, fol. 208.

Post fine, Is a Duty belonging to the King, for a Fine formerly acknowledged before him in his Court, which is paid by the Cognisee, after the same is fully passed, and all things performed touching the same; the Rate thereof is so much, and half so much as was paid to the King for the Fine, and is collected by the Sheriff of the County, where the Land, &c. lies whereof the Fine was levied; to be answered by him into the Exchequer.

Post terme, *Post terminum*, Is a return of a Writ, not only after the day assigned for the return thereof, but after the *terme* also, for which the *Custos brevium* takes the Fee of twenty pence. Sometimes also it is taken for the Fee it self.

Postea, Is the return of the proceedings by *Nisi prius* into the Court of Common-Pleas after a Verdict, and there afterwards recorded, see *Plowden*, fol. 211. *Saunders's Case*. See also an example of it in *Cokes Reports*, vol. 6. fol. 41, 42. See *Custos brevium*.

Posteriority, *Posterioritas*, The coming after or being behind, is a word of comparison, and relation in tenure, the correlative whereof is Priority; for a man holding Lands or Tenements of two Lords, holdeth of his ancients Lord by Priority, and of his later Lord by *Posteriority*, *Stam. prerog. fol. 10, 11.* When one Tenant holdeth

holdeth of two Lords, of the one by Priority, of the other by Posteriority, &c. *Old Nat. Brev. fol. 94. Co. 2. Inst. fol. 392.*

Postnati, In the Seventh year of King James, after many Arguments, and long debates, It was by all the Judges Resolved, That such as were born in Scotland, after the descent of the Crown of England to King James, were no Aliens in England: But the *Antenati*, that is, such as were born before that descent, were Aliens in regard of the time of their Birth, *Co. 7. Reports, Calvine's Case.*

Pot, A Head-piece for War, 13 *Car. 2. cap. 6.*

Pot-Ashes, Are made of the best *Ashes*, Anno 12 *Car. 2. cap. 4.* and are used in making of Soap; some are made in England, but the best are brought from beyond Sea.

Portionatus, Poysoned, *Vita M. S. Vulgigi 3. Abbatis S. Albani.*—*Postea in brevi migravit ab incolatu hujus mundi, ut dicitur portionatus, cum odio conventus & maledictione.*

Pound, *Parcus*, Signifies a place of strength to keep Cattel in that are distrained, and put there for any Trespass done, until they be replevied or redeemed; and this is called a *Pound*, Overt or Open *Pound*; and because it is built upon the Lord's wast, the Lord's *Pound*, see *Kitchin, fol. 144.* It is divided into open and close; An open or overt *Pound*, is not only the Lord's *Pound*, but a Backside, Court, Yard, Pasture-Ground, or whatever place else, whither the Owner of the Beasts impounded may come to give Meat and Drink, without offence, for their being there, or his coming thither. A close *Pound* is contrary, whither the Owner cannot come for the purposes aforesaid, without Offence.

Pound-breach. See *Pundbrech*.

Poundage, Is a Subsidy to the value of twelve pence in the *Pound*, granted to the King, of all manner of Merchandise of every Merchant, as well Denizen as Alien, either exported or imported, and of such Subsidies. See the Statutes 1 & 2 *Ed. 6. cap. 13.* and 1 *Jac. cap. 33.* 12 *Car. 2. cap. 4.* and 14 *Car. 2. cap. 24.*

Pourallée. See *Purlieu*.

Purchase, *Perquisitum*, Cometh of the French *Pourchasser, sollicitare*; it signifieth the buying of Lands or Tenements with Money, or by any other Agreement, and not the obtaining of it by descent, *Conjunctum perquisitum*, a Joynt-purchase, *Reg. Orig. fol. 143.*

Pour faire proclamee, *que null insect fimes ou ordures en fosses, ou rivières pres Citoyes, &c.* Is a Writ directed to the Mayor, Sheriff or Bayliff, of a City or Town, commanding them to proclaim, That none cast filth into the Ditches or Places near adjoining; and if any cast already, to remove it. This is founded upon the Statute, 12 *R. 2. 13. F. N. B. fol. 176.*

Pourparty, *Propars, Propartis, Proportia*, Is contrary to *pro indiviso*; for to make *Pourparty*, is to divide and sever the Lands that fall to Parceners, which before partition they hold joyntly, and *pro indiviso*, *Old Nat. Brev. fol. 11.*

Pourpresture, *Pourprestura*, From the French

Pourpris, confiscatum, an inclosure: It is thus defined by *Glanville, lib. 9. cap. 31.* *Pourprestura est propria quando aliquid super Dominum Regem injuste occupatur; ut in Dominicis Regis, vel in his publicis obstructis, vel in aquis publicis transversis a recto cursu, vel quando aliquis in civitate super Regiam plateam aliquid edificando occupaverit; & generaliter, quoties aliquid fit ad nocumentum Regis tenementi vel Regis via vel civitatis.* *Compton in his Jurisd. fol. 152.* defines it thus, *Pourpresture* is properly when a Man taketh unto himself, or incroacheth any thing that he ought not, whether it be in any Jurisdiction, Land or Franchise; and generally when any thing is done to the Nuisance of the King's Tenants. See *Kitchin, fol. 10.* and *Marmoods Forest Laws, cap. 10.* *Skene de verbor. Signif. verbo Purpresture*, makes three sorts of this offence, one against the King, a second against the Lord of the Fee, the third against a Neighbour by a Neighbour. See *Co. 2. Inst. fol. 38. & 272.*

Pour saisir terres la feme que tient en Dower, &c. Was a Writ whereby the King seized upon the Land which the Wife of his Tenant that held in *Capite*, deceased, hath for her Dowry, if she married without his leave; and is grounded upon the Statute of the King's Prerogative, *Cap. 3.* See *F. N. B. fol. 174.*

Poursuivant, From the French *Poursuivre, i. persequi*, Signifies the King's Messenger attending upon him in his Wars, or at the Council-Table, Exchequer, in his Court, or his Chamber, to be sent upon any Occasion or Message; as for the apprehending of a person accused, or suspected of any Offence: Those that be used in Martial Causes are call'd *Pursuivants at Arms*, 24 *H. 8. 13.* whereof there be four of special Names, which see in the word *Herald*. And *Stow* speaking of *Richard the Third's* death, *pag. 784.* hath these Words, *His Body was naked to the Skin, not so much as one Clout about him, and was trussed behind a Pursuivant at Arms like a Hog, or a Calf, &c.* The rest are used upon other Messages in time of Peace, and especially in matters touching Jurisdiction. See *Herald*.

Pourveyer, *Provisor*, Derived from the French *Pourvoir, i. providere*, Signifies an Officer of the King or Queen, or other great Personage, that provideth Corn and other Victual for their House. See *Mag. Charta, cap. 22.* and 3 *Ed. 1. cap. 7. & 31.* & anno 28. *ejusdem, Articuli super Chartas*, 2. and other Statutes; but this Office is limited by 12 *Car. 2. cap. 24.* See *Purveyance* and *Achate*.

Purveyance, Is the providing Corn, Fuel, Victual, and other Necessaries for the King's House. By 12 *Car. 2. cap. 24.* It is provided, That no Person or Persons, by any Warrant, Commission or Authority, under the Great Seal, or otherwise, by colour of buying or making provision or *Purveyance* for his Majesty, or any Queen of England for the time being, or that shall be, or for his, their, or any of their Household, shall take any Timber, Fuel, Cattel, Corn, Grain, Malt, Hay, Straw; Victual, Cart, Carriage, or other thing whatsoever of any the Subjects of his Majesty, his Heirs or Successors, without the full and free consent of the Owner or Owners thereof, had and obtained without Menace

or **Enforcement**, &c. See the Antiquity of Pre-emption and **Parveyance**, &c. and 3. Inst. fol. 82.

Power of the County, *Poss Comitatus*, In the Opinion of Lambert in his *Eirenarcha*, lib. 3. cap. 1. fol. 309. containeth the Ayd and Attendance of all Knights, Gentlemen, Yeomen, Laborers, Servants, Apprentices, and all others, above the Age of fifteen Years within the County, because all of that Age are bound to have Hardness by the Statute of *Winchester*: But Women, Ecclesiastical Persons, and such as are decrepit, or labor of an Infirmary, shall not be compelled to attend. And the Statute of 2 H. 5. cap. 8. sayes, That Persons able to travel, shall be assistant in this Service, which is used where a Possession is kept upon a Forcible Entry, or any Force or Rescue used, contrary to the Command of the King's Writ, or in opposition to the Execution of Justice.

Powledavis. See *Poledavis*, 1 Jac. 24.

Poyntings Law, Is an Act of Parliament made in Ireland by Hen. 7. and so called, because Sir Edward Poyntings was Lieutenant there when it was made, whereby all the Statutes in England were made of force in Ireland, which before that time were not, neither are any now in force there which were made in England since that time. See *Cokes* 12. Rep. fol. 190. Hill. 10 Jac.

Pray age. See *Age prior*.

Pray in ayd. See *Ayd*.

Pratum falcabile, A Meadow or Ground fit for Mowing, Juratores dicunt quod predicta placea a tempore quo, &c. fuit pratum falcabile usque ad predictum annum quod W. predictus illud aravit, Trin. 18 Ed. 1. in Banco Rot. 50.

Preamble, *Proemium*, Takes name from the Preposition *præ*, before, and *ambulo* to walk; as if we would say, To walk before: And hercof the beginning of an Act is called *The preamble*, which is as a Key to open the intent of the Makers of the Act, and the Mischiefs which they would remedy by the same. As for example, the Statute made at Westminster the First, chap. 37. which gives an Attaint: The preamble is thus, forasmuch as certain people doubt very little to give false Verdicts or Oaths, which they ought not to do, whereby many People are disherited, and lose their Right. It is provided, &c.

Prebend, *Præbenda*, Is the portion which every Member, or Canon, of a Cathedral Church receiveth in the right of his Place for his Maintenance: So *Canonica portio* is properly used for that share, which every Canon or Prebendary receiveth yearly out of the common Stock of the Church; And *Præbenda* is a several Benefice, rising from some Temporal Land, or Church appropriated, towards the Maintenance of a Clerk, or Member of a Collegiat Church, and is commonly first named of the place whence the profit groweth. And these Prebends be either *simple*, or with *dignity*; *Simple Prebends* be those that have no more but the Revenue towards their Maintenance. *Prebends with dignity* are such as have Jurisdiction annex to them, according to the divers Orders in every several Church. Of this, see more in the *Decretals*, tit. *De præbendis & dignitat*. *Præbenda* was also in old Deeds used for Proven-

der, as the learned *Spelman* saith, *Ex lib. M. S. Rossensis Ecclesie*, cap. *Quid mensura granarii continent*.

Prebendary, *Præbendarius*, Is he that hath a Prebend, and is so called, a *Præbendo auxilium aut consilium Episcopo vel Decano*.

Precaria, Are Dayes Works, which the Tenants of some Mannors are bound, by reason of their Tenure, to do for the Lord in Harvest; and in divers places are vulgarly call'd **Widen** dayes for **Widen** dayes, which in the Saxon *Dies precarias sonat*. For **Widen** is to pray or intreat. This Custome is plainly set forth in the great Book of the Customs of the Monastery of Battell, tit. *Apelderhan*, fol. 60. *Johannes Aylmer tenet per irrotulamentum Curie, unum Mess. & unam Virgatum terræ, &c. & debet invenire unum hominem, &c. & etiam debet venire, quolibet anno ad duas precarias caruæ cum caruæ sua si habeat integram caruam, vel de parte quam habeat caruam quum habet, si caruam non habeat integram & tunc arare debet utroque die quantum potest a mane usque ad meridiem, & uterque lentor, viz. caruæ & fugatorum habeant unum pastum solemnem utroque die prædictarum precariarum, &c. & debet invenire ad 3. precarias in Autumno 2. homines, &c.* See more in *Spelmans Glossary*, verbo *Precaria*. See *Bederepe*.

Prece partium, Is when a Suit is continued by the prayer, assent or agreement of both Parties, Anno 13 E. 1. cap. 27.

Precept, *Præceptum*, Is diversly taken in Law as sometime for a Commandment in Writing, sent out by a Justice of Peace, or other like Officer, for the bringing of a Person or Records before him, of which you have divers examples in the Table of the Register Judicial. And in this sense it seems to be borrowed from the Customs of Lombardy, where *præceptum* signifieth *Scripturam vel instrumentum*, Hotom. in verb. *Feudal*. & lib. 3. *Commentar in libros feudor in præfatione*. Sometimes it is taken for the provocation, whereby one man incites another to commit a Felony, as Theft, Murder, &c. *Stamf. pl. cor.* fol. 105. *Bracton*, lib. 3. tract. 2. cap. 9. calls it *Præceptum* or *Mandatum*. Whence we may observe three diversities of offending in Murder, *Præceptum*, *Fortia*, *Consilium*. *Præceptum* being the intigation used before-hand: *Fortia*, the assistance in the Fact, as to help to bind the party murdered or robbed; *Consilium*, advice either before or in the Fact. The *Civilians* use *Mandatum* in this Case.

Preceptories, *Præceptorie*, Anno 32 H. 8. cap. 24. Were Benefices in a kind, and termed *Præceptorie*, because they were possessed by the more eminent sort of the Templers, whom the chief Master by his Authority created and called, *Præceptores templi*. *Joach. Steph. de Jurisdic.* lib. 4. cap. 10. num. 27. Sixteen of these are recorded, viz. *Cressing-Temple*, *Balshall*, *Shengay*, *Newland*, *Tevelley*, *Witham*, *Temple Bruere*, *Wallington*, *Rothely*, *Ovenington*, *Temple-Combe*, *Trebigh*, *Ribstan*, *Mount St. John*, *Temple-Newsum*, and *Temple hurst*. *Monast. Ang.* 2. par. fol. 543.

Præcipe quod reddat, Is a Writ of great diversity both in its form and use, for which see *Ingressus* and *Entry*. This form is extended as well to a Writ of Right, as to other Writs of Entry or Possession, *Old Nat. Brev.* fol. 13. and F. N. B.

F. N. B. fol. 5. It is called sometime a *Writ of Right close*, as a *Præcipe in Capite*, where it issueth for a Tenant holding of the King in chief, as of his Crown; and not of the King, as of any Honor, Castle or Mannor, *Reg. Orig. fol. 4.* and *F. N. B. fol. 5.* Sometime a *Writ of Right Patent*, as when it issues out of the Chancery Patent, that is, open to any Lords Court for any of his Tenants deforced against the Deforfeor, and must be determined there. Of which read more at large *F. N. B. cap. 1.*

Præcipe in Capite, *Mag. Chart. cap. 24.* Was a Writ issuing of the Court of Chancery, for a Tenant holding of the King in chief, as of his Crown, and not as of any Honor, Castle or Mannor, *Regist. fol. 4.*

Precontract, 2 & 3 *Ed. 6. cap. 23.* Is a Contract made before another Contract, but hath relation especially to Marriages.

Prædial Tythes, *Decime Prædiales*, Are those which are paid of things arising and growing from the Ground onely, as Corn, Hay, Fruit of Trees, and such like, 2 *E. 6. 13.* See *Co. 2. Inst. fol. 649.*

Præemption, *Præemptio*, Was a Priviledge allowed the King's Purveyor, to have the first buying of Corn and other provision, before others, for the King's House, which is taken by a late Statute made 12 *Car. 2. cap. 24.*

Prelate, *Prelatus*, We usually interpret to be an Arch-Bishop or Bishop: But *Spelman* in his *Glossary* saies, *Prelati Ecclesie vocantur nedum superiores ut Episcopi, sed etiam inferiores, ut Archidiaconi, Presbyteri, Plebani & Rectores Ecclesiarum, sic enim in Bulla Privileg. apud Mat. Par. in Hen. 3. sub anno 1246. Innocentius, &c. universis tam Cathedralium quam aliorum Prælati, necnon Patronis Ecclesiarum Clericis & Laicis per Regnum Angliæ constitutis salutem, &c. pag. 476.*

Premises. See *Habendum*.

Premium, *Premium*, A Reward; Amongst Merchants it is used for that sum of Money which the insured gives the Ensurer for ensuring the safe return of any Ship or Merchandise, *Anno 19 Car. 2. cap. 1.*

Præmunire, Is either taken for a Writ so called, or for the Offence whereupon the Writ is granted. The one may be sufficiently understood by the other; We may therefore take notice, That heretofore the Church of Rome, under pretence of her Supremacy, and the Dignity of St. Peter's Chair, took upon her to bestow most of the Bishopricks, Abbathies, and other Ecclesiastical Livings of worth here in England, by Mandates, before they were void, pretending therein a great Care to see the Church provided of a Successor before it needed: Whence it sprung, That these Bulls were called *Gratie Expectative*, or *Provisiones*, whereof you may read a learned Discourse in *Duarenus*, in his Treatise *De Beneficiis*, lib. 3. cap. 1. and in his Treatise *De immunitate Ecclesie Gallicane*. These Provisions were so frequent with us, that at last King Edward the Third, not digesting so intollerable an Encroachment, made a Statute in the twenty fifth year of his Reign, *Stat. 5. cap. 22.* and another *Stat. 6. cap. 1.* and a third *Anno 27.* Against those that drew the Kings people out of the Realm, to answer touching things

belonging to the King's Court: And another *Anno 28. stat. 2. cap. 1, 2, 3, 4.* whereby he much restrained this Usurpation of the Pope; nevertheless he still adventured the Continuation of these Provisions, insomuch that King Richard the Second likewise made a Statute against them in the Twelfth year of his Reign, *cap. 15.* and likewise in his thirteenth year, *stat. 2. cap. 2.* wherein mentioning the said first Statute of Edward the Third, he ratified the same, and appointed the punishment of those that offended against it, to be Perpetual Banishment, Forfeiture of their Lands, Tenements, Goods and Chattels, &c. And again, in the sixteenth year of his Reign, to meet more fully with all the Shifts invented to defraud these former Statutes, he set forth the Offence more particularly, with the same punishment for it, as in the former Statute. After him, King Henry the Fourth in like manner vexed with these and other Abuses not fully met with in the former Statutes, in the second year of his Reign, *cap. 3, 4.* addeth certain new cases, and lays upon the Offenders in them the same censure, whereto I refer you, as also to 9 *H. 4. cap. 8.* and 3 *H. 5. 4.* concerning which, and the danger that hath been threatned thereby, with the necessity thereof since the uniting of the Supremacy, both Ecclesiastical and Temporal in the King, read Sir Thomas Smith *de Repub. Angl. lib. 3. cap. 9.* 'Tis true, some later Statutes do cast this punishment upon other Offenders, as namely, the Statute of 1 *Eliz. cap. 1.* upon him that denies the King's Supremacy the second time, &c. And the Stat. 13 *Eliz. cap. 2.* upon him that affirms the Authority of the Pope, or refuseth to take the Oath of Supremacy. And the Stat. 13 *Eliz. cap. 1.* such as be Seditious Talkers of the Inheritance of the Crown, or affirms the Queen to be an Heretick. And the Statute 13 *Car. 2. cap. 1.* upon such as affirm the Parliament begun at Westm. 3. Novemb. 1640. is not yet dissolved: Or that there is any Obligation by Oath, Covenant or Engagement whatsoever, to endeavor a change of Government either in Church or State: Or that both, or either House of Parliament, have or hath a Legislative Power without the King. And the Word is applied most commonly to the Punishments first Ordained by the Statutes before mentioned, for such as transgressed them, but in later times (as we have shewn) imposed upon other Offences; For, where it is said, That any Man for an Offence committed, shall incur a *præmunire*, it is meant, that he shall incur the same punishment which is inflicted upon those that transgress the Statute made 16 *R. 2. cap. 5.* commonly called the Statute of *Præmunire*, which kind of reference is not unusual in our Statutes: As to the Etymology of this word *Præmunire*, some think it proceedeth from the strength given to the Crown by the former Statutes, against the Usurpation of a Foreign Power, which Opinion may receive Ground from the Statute, 25 *E. 3. stat. 6. cap. 1.* But others think it may be deduced from the Verb *Præmonere*, being barbarously turned into *Præmunire*; which corruption is taken from the rude Interpreters of the Canon Law, who indeed do put the effect *Præmunire* many times for the sufficient cause *Præmonere*, according to the Proverb, He

that is well warned, is half armed. Of which a reason may be gathered from the form of the Writ, *Præmunire facias præfatum Præpositum & J. R. Procuratorem, &c. quod tunc sint coram nobis, &c.* which words can be referred to none, but the parties charged with the Offence. See 3. *Inft.* fol. 119.

Render. Is the power or right of taking a thing before it is offered; from the French *Prender*, id est, *accipere*: It lies in Render, but not in Prendet, Co. Rep. 1. par. Sir John Peter's Case.

Render de Baron. Signifies literally to take a Husband; but it is used as an Exception, to disenable a Woman from pursuing an Appeal of Murder against the Killer of her former Husband, *Stamf. pl. cor. lib. 3. cap. 59.*

Prepensel. *Præpensus*, Fore-thought; as *Malice prepensel*, *Malitia præcogitata*, when a Man is slain upon a sudden Quarrel; yet if there were *Malice prepensel* formerly between them, it makes it Murder; or, as it is called in the Statute 12 Hen. 7. cap. 7. *prepensel Murder*. See Murder, and 3. *Inft.* fol. 51.

Præpositus Ecclesie. See Church Reve.

Præpositus Villa. Is sometimes used for the Constable of a Town, or Petit Constable; *Crompt. Jur. fol. 205.* Howbeit the same Author, fol. 194. seemeth to apply it otherwise, for there *Quatuor homines præpositi* be those four men, that for every Town must appear before the Justices of the Forest in their Circuit: It is used sometime for a Reve, or for a chief Officer of the King in a Town, Mannor or Village. See Reve, *Animatua & res inventæ coram ipso & sacerdote ducenda erant*, Leg. Edw. Conf. cap. 28.

Prærogative of the King. *Prærogativa Regis*, Derived from *Præ*, ante, and *Rogare*, to ask or demand: Is that special Power, Pre-eminence or Privilege, which the King hath over and above other Persons, and above the ordinary course of the Common Law, in the right of his Crown, *Potest Rex ei, lege sue dignitatis, condonare si velit, etiam mortem promeritam*, Leg. Ed. Conf. cap. 18. And the Civilians use this Word *Prærogative* in the same sense: Among the Feudists it is termed, *Jus regaliæ, jus regaliæ, vel à nonnullis jus Regaliæ*. And as the Feudists, *Sub jure Regaliæ*. So our Lawyers, *Sub prærogativa Regis* do comprise all that absolute height of power that the Civilians call *Majestatem vel potestatem, vel jus imperii*, subject only to God. Which *Regalia* the Feudists divide into two sorts, *Majora & minora regalia*; for to use their own Words, *Quædam regalia dignitatem, prærogativam & imperii præeminentiam spectant; quidam verb. ad utilitatem & commodum pecuniarium immediate attinent, & hæc propriè fiscalia sunt & ad jus fisci pertinent*. *Peregr. de jure fisci, lib. 1. cap. 1. num. 9.* See also *Arnoldus Chymarius, de arcibus imperii, lib. 1. cap. 11.* By which it appears, That the Statute of the King's *Prærogative* made 17 E. 2. contains not the King's whole *Prærogative*, but onely so much thereof as concerns the profit of his Coifers, growing by vertue of his Regal Power and Crown; for it is more than manifest, That his *Prærogative* extends much farther, yea even in the matters of his profit, which that Statute especially consisteth of; For the King hath many Rights of Majesty peculiar to himself, which the learned in the Law term *Særa sacrorum*, that is, sacred;

and *individua*, inseparable, because they cannot be sever'd, which are many and various; and if you would satisfie your self therein, read *Stamf. prærog. the Stat. Prærogativa Regis*, 17 E. 2. *Plowden in the Case of Mines*, F. N. B. fol. 31. 31 H. 8. cap. 13. Co. lib. 10. tit. 1. The learned *Spelman* calls it *Lex Regia dignitatis*.

Prærogative of the Bishop of Canterbury or York. *Prærogativa Archiepiscopi Cantuariensis, five Eboracensis*, Is an especial Pre-eminence that these Sees have in certain Cases above ordinary Bishops within their Province, of which whoever desires to receive more full Information, may read the Book intituled, *De Antiquitate Britannicæ Ecclesiæ, & nominatim de privilegiis Ecclesiæ Cantuariensis historia*, and especially in the Eighth Chapter of that Book, pag. 25.

Prærogative Court. *Curia prærogativa Archiepiscopi Cantuariensis*, Is the Court wherein all Wills be proved, and all Administrations taken, that belong to the Archbishop by his *Prærogative*; that is, in case where the deceased had Goods of any considerable value out of the Diocess, wherein he died; and that value is ordinarily 5*li.* except it be otherwise by composition between the said Archbishop and some other Bishop, as in the Diocess of London it is ten Pound: And if any Contention grow between Two, or more, touching any such Will or Administration, the Cause is properly debated and decided in this Court: the Judge whereof is termed *Judex Curie Prærogativæ Cantuariensis*, the Judge of the *Prærogative Court* of Canterbury. The Archbishop of York hath also the like Court, which is termed *His Exchequer*, but far inferior to this in power and profit.

Prescription. *Præscriptio*, Is a Title, taking his substance of use, and time allowed by the Law, which is beyond the memory of Man, *Kitchin, fol. 104.* saith thus, *Prescription* is, when for continuance of time, *ultra memoriam hominis*, a particular Person hath particular right against another particular person; With whom agrees Co. lib. 4. fol. 32. and Co. on Lit. fol. 140. But as in the Civil Law, so likewise in the Common: *Prescription* may be in a shorter time, at least in some special Cases. As for example, Where the Statute 1 H. 8. cap. 9. saith, That all Actions popular must be sued within three years after the Offence committed: And the Stat. 7 H. 8. 3 that four years being past after the Offence committed in one case, and one year in another, no Suit can be commenced. And the Stat. 31 Eliz. cap. 5 saith, That all Actions, &c. brought upon Statute, the penalty whereof belongs to the King, shall be brought within two years after the Offence committed, or else be void. And the Stat. 39 Eliz. cap. 1. 2. saith, That Actions brought after two Years by any common person, or after three years by the King alone for decay of Husbandry, shall be of no force: Whosoever offendeth against any such Statute, and escapes unquestion'd for two years or three, of the two later of the three fore-mentioned Statutes, may justly be said to have *prescribed* against that Action. The like may be said of the Statute made 23 Eliz. cap. 1. which saith, That all Offences comprised in that Statute, made in the thirteenth year of Eliz. cap. 2. are inquirable before both Justices of Peace and Assize within a year and

and a day after the Offence committed: Also the Title that a man attaineth by the passing of five years, after a Fine acknowledged of any Lands or Tenements, may justly be said to be obtained by prescription: And whereas the Statute made 8 R. 2. cap. 4. saith, That a Judge, or Clerk, convicted for false entering of Pleas, may be fined within two years; the two years being past, he prescribeth against the punishment of the said Statute: And whereas the Statute 11 H. 7. sayes, That he which will complain of Maintenance or Embracery, whereby perjury is committed by a Jury, must do it within six dayes, those six dayes ended, the Parties prescribe; and divers other Statutes have the like limitation of time, whence may arise a like prescription. See *Alien perpetual and temporal*. See *Lam. Eiren. lib. 4. cap. 5. pag. 469. Cromp. Just. of Peace, fol. 173.* Of this prescription, and the learning touching the same, see *Co. Rep. 4. Lutterell's Case, fol. 84. Prescriptio est jus quoddam, ex tempore congruens, auctoritate legum vim capiens, penam negligentibus inferens & finem litibus imponens — Quadragenalis prescriptio omnem prorsus actionem excludat. Reformatio Legum Eccles. pag. 246. See 2 Inst. fol. 653. Stamf. prerog. cap. 8. and Co. 7. Rep. Baskerville's Case.*

Presentation, Præsentatio, Is used properly for the Act of a Patron, offering his Clerk to the Bishop, to be instituted in a Benefice of his Gift; the form whereof, See in *Reg. Orig. fol. 322.*

Presentee, Is the Clerk that is so presented by the Patron: In the Stat. 13 R. 2. ca. 1. mention is made of the King's Presentee, that is, he whom the King presents to a Church.

Presentment, Is a meer denunciation of the Jurors themselves, or some other Officer, as Justice, Constable, Searcher, Surveyor, &c. (without any information) of an Offence inquirable in the Court wherunto it is presented, *Lamb. Eiren. lib. 4. cap. pag. 467.*

President, Præses, In a legal sense denotes the King's Lieutenant in a Province or Function, as the President of Wales, York, Berwick, or of the King's Council, 22 H. 8. cap. 8. and 24 H. 8. 3. 14.

Preſt, Is used for a Duty in Money to be paid by the Sheriff, upon his account in the Exchequer, or for Money left, or remaining in his hands 2, & 3 Ed. 6. ca. 4.

Preſt-money, Is so called of the French word *Preſt*, that is, *promptus expeditus*, for that it binds those that receive it, to be ready at all times appointed, being meant commonly of Soldiers, 18 H. 6. 19. 7 H. 7. 1. 3 H. 8. 5. and 2 E. 6. 2.

Preſtation-money, Præſtatio, A paying or performing, is a Sum of Money paid by Archdeacons yearly to their Bishop *pro exteriori Jurisdictione — Et sunt quieti a præſtatione Muragii*, Cart. H. 7. Burchen. Mount-Gomer. Præſtatio was also anciently used for Purveyance. See Mr. Phillip's Book on that Subject, pag. 222. And see *Spiritualties*.

Presumption, Præſumptio, Is of three sorts, 1. *Violent*, which is many times a full proof; as if one be kill'd in a House, and a Man is seen to come out of the House with a bloody Sword, and no other Person was at that time in the

House; this, though but a *presumption*, is as a proof. 2. *Probable*, which hath but a small effect. 3. *Levis, seu temeraria*, which is of no prevalency at all: So in case of a Charter or Feoffment, if all the Witnesses to the Deed be dead; the *violent presumption*, which stands for a proof, is continual and quiet possession, *Co. on Lit. lib. 1. cap. 1. sect. 1. Præſumptio ſtat in dubio*, it is doubted of yet accounted *Veritatis comes, quatenus in contrarium nulla eſt probatio, ut regula ſe habet, ſtabitur præſumptio donec probetur in contrarium. Præſumption was anciently taken for intrusion. — Affaltus, Roberia, Sterbrech, præſumptio terræ vel pecunie Regis, Theſaurus inventus, &c. Leg. Hen. 1. cap. 11. De his quæ ſunt jure Regis.*

Presented Right or Title, Jus prætenſum, Is, where one is in possession of Lands or Tenements, and another who is out claims it, and sues for it: Here the *pretended right and title* is said in him who doth so claim and sue.

Prævaricate, Prævaricare, Is, when a Man fallily and deceitfully seems to undertake a thing, *eâ intentione*, that he may destroy it, *Dicitur prævaricator quaſi varicator, a varia teratione, quia adverſam partem ad juvat prodiſa ſua propriâ cauſâ, dum hinc inſtat corpore ex una parte & illi mente & corde ex altera parte. Vocabul. utriuſque juriſ. verb. Prævaricatores.*

Price. See *Value*.

Whicked Bread. — *Molendinariorum septem panes de conventu & septem panes de Whicked Bread, Monast. Angl. 1. par. fol. 498.*

Prive-gavel, In the Lordship of Roddeley, in the County of Gloucester, is used and paid unto this day, as a Rent to the Lord of the Mannor by certain Tenants, in duty and acknowledgement to him for their liberty and priviledge of fishing in the River Severne for Lampryes, *Taylor's History of Gavel-kind, cap. 9. fol. 112, 113.*

Primo beneficio. See *Beneficio*.

Priddy, Is sometimes joyned to an Accusative, and sometimes to a Genitive Case; as *Priddy Calendes*, and *Priddy Calendarum*, is the day before the *calends*, that is, the last day of every Month.

Primage, Is a Duty due to the Mariners and Sayers, for the loading of any Ship at the setting forth from any Haven, Anno 32 H. 8. ca. 14. which, in some places, is a penny in the pound, in others six pence for every Pack or Bayl, or otherwise, according to the Custom of the place.

Primer ſeiſin, Prima ſeiſina, The first possession or *ſeiſin* was heretofore used as a branch of the King's Prerogative, whereby he had the first possession, that is, the intire profits for a year of all the Lands and Tenements, whereof his Tenant (that held of him in *Capite*) dyed *ſeiſed* in his Demefne as of Fee, his Heir then being at full age; until he do his Homage, or if under age, until he were of Age; *Stamf. prerog. cap. 3. and Bracton, lib. 4. traſt. 3. cap. 1.* But all the charges arising by *Primer ſeiſins* are taken away by the Stat. made 12 Car. 2. ca. 24.

Primitivæ, First-Fruits, Are properly the first of our increase offered to God; but in our Law, are the profits after avoidance of every spiritual Living for one year. See 26 H. 8. ca. 3.

32 H. 8. 45. 1. Mar. Sess. 2. ca. 10. and 1 Eliz. ca. 4. See First Fruits.

Primogeniture, *Primogenitura*, The Title of an Elder Brother in right of his Birth: The reason of which, Co. upon Lit. sayes is, *Qui prior est tempore, potior est jure*, affirming moreover, That in King Alfred's time, Knights Fees descended to the Eldest Son, for that by the division of such Fees between Males, the defence of the Realm might be weakened. And Judge Dodderidge in his Treatise of Nobility saith, pag. 119. It was anciently Ordained, That all Knights Fees should come unto the eldest Son by Succession of Heritage, whereby he succeeding his Ancestors in the whole Inheritance, might be the better enabled to maintain the Wars against the King's Enemies, or his Lords. And that the *Socage* should be partible among the Male-Children, to enable them to increase into many Families, for the better furtherance in and increase of Husbandry.

Prince, *Princeps*, Is sometimes at large taken for the King himself, but more properly for the King's Eldest Son, who is **Prince of Wales**, as the eldest Son to the French King, is called *Dauphine*; both being born Princes, *Fernes Glory of Generosity*, pag. 138. Before Edward the Second, who was born at Caernarvon, and the first English Prince of Wales, the King's Eldest Son was stiled Lord Prince, *Stamf. prerog. ca. 22. fol. 75.* See 27 H. 8. ca. 26. and 28 H. 8. 3. and *Stow's Annals*, pag. 303.

Principal, *Principalium*, A Heyrloome, which see. In *Urchensfield*, in the County of Hereford, certain *Principals*, as the best Beast, the best Bed, best Table, &c. pass to the Eldest Child, and are not lyable to partition. Also the chief person in some of the Inns of Chancery, is called *Principal of the House*. See *Ancient*.

Principality of Chester, Anno 21 Rich. 1. ca. 9. See *County Palatine and Crompton's divers Jurisdictions*, fol. 137.

Prior perpetual, or Dative and removable, Anno 9 Rich. 2. ca. 4. and 1 E. 4. cap. 1. Lord Prior of St. Johns of Jerusalem, 26 H. 8. ca. 2.

Priors aliens, *Priores alieni*, Were Religious Men born in France, and Governors of Religious Houses, erected for Outlandish Men here in England, which were by King Henry the Fifth, after his Conquests in France, thought no good Members for this Land, and therefore suppressed them; whose Livings afterwards were by King Henry the Sixth given to other Monasteries and Houses of Learning, *Stow's Annals*, pag. 582. and 1 H. 5. ca. 7. but especially to the erecting of those two famous Colleges called the one *Kings College in Cambridge*, the other *Eaton*, 2. par. *Inst. fol. 584.*

Priority, *Prioritas*, Signifies an Antiquity of Tenure, in comparison of another not so ancient, as to hold by priority, is to hold of a Lord more anciently than of another, *Old Nat. Brev. fol. 94.* So to hold by Posteriority is used in *Stamf. prerog. cap. 2. fol. 11.* And *Crompton in his Jurisd. fol. 117.* useth this Word in the same signification. The Lord of the Priority shall have the custody of the Body, &c. and fol. 120. If the Tenant hold by Priority of one, and by Posteriority of another,

&c. to which effect, see also *F. N. B. fol. 142.* *Bar-tolus* in his Treatise *De insigniis & armis*, useth these words, *Prioritas & posterioritas*, concerning Two that bear one Coat-Armor.

Prisage, Is that custome or share that belongs to the King, out of such Merchandise as are taken at Sea by way of lawful prise, Anno 31 Eliz. ca. 5.

Prisage of Wines, Anno 1 H. 8. ca. 5. Is a word almost out of use, being now call'd *Butlerage*, (because the King's chief Butler receives it;) It is a Custome whereby the Prince challengeth out of every Bark laden with Wine, containing less than forty Tun, two Tun of Wine, the one before, the other behind the Mast at his own price, which is twenty shillings a Tun, yet this varies according to the Custom of the Place: For at *Boston*, every Bark laden with ten Tuns of Wine, or above, pays *Prisage*. See *Butlerage* and *Galtbrop's Reports*, fol. 20. and 4. par. *Inst. fol. 30.*

Memorandum, Quod Rex habet ex antiqua consuetudine de qualibet Nave mercatoris vini 6. carcat. applican. infra aliquem portum Anglia de viginti do-liis, duo dolia & de decem do-liis unum de prisae Regis pro quodam certo ab antiquo constitut. solvend. P. Rec. 20. R. 2.

Prise, *Prisa*, From the French *Prendre*, *capere*, signifies in our Statutes the things taken of the King's Subjects by *Purveyors*, Anno 13 E. 1. ca. 7. and 28 E. 1. stat. 3. ca. 2. It signifies also a Custome dueto the King, 25 E. 1. ca. 5. *Reg. Orig. fol. 117.* In *foraneis paginis antiquis* (sayes the learned *Spelman*) *prise* plerumque intelliguntur de annone rei-pie frumentariae captivibus aliis etiam necessariis, ob alenda, instruendaque castrorum praesidia, necnon et Regiam familiam minori quam iusto pretio agricolis arreptis, &c. In *Rescripto quodam*, Anno 3 E. 1. *Norff. — Rogerus de Monte alto qui sororem & heredem Hugonis de Albeney, &c. desponsaverat, clamat habere libertates has sub-scriptas, viz. Castellum suum de Rysinge cum prisae 40. dierum, &c. Ubi clausulam cum prisae 40. dierum intelligo de libertate capiendi victualia quae vocant ad sustentationem praesidiarii militis castri sui, ita quod pretium reddat infra 40. dies.* See 12 Car. 2. ca. 24.

Prison, *Prisona*, Is a place of restraint for the safe custody of a person to answer any Action personal or criminal; And here we are to note, That this *salva custodia* must onely be *custodia non pans*, for *carcer ad homines custodiendos non ad puniendos dari debet*, Co. on Lit. lib. 3. ca. 7. sect. 438.

Prisoner, *Prisonarius, captivus*, From the French *Prisonnier*, signifies a man restrained of his Liberty upon any Action civil or criminal, or upon Commandement: And a Man may be a Prisoner upon matter of Record, or matter of *Faßt*. Prisoner upon matter of Record is he, which being present in Court, is by the Court committed onely upon Arrest, be it by the Sheriff, Constable, or other, *Stamf. pl. cor. lib. 1. cap. 32. fol. 34. & 35.*

Privation, *Privatio*, A bereaving or taking away, most commonly applyed to a Bishop or Rector of a Church, when, by Death, or other act

ad. they are deprived of their Bishoprick or Benefice. See *Co. de Lit. fol. 329.*

Privy, Derived of the French *Privé*, i. Familiar, Signifies him that is partaker, or hath an interest in any Action or thing, as *privies of Blood*, *Old Nat. Brev. fol. 117.* be those that are linked in Consanguinity; every Heir in tail is *privy* to recover the Land intailed, *Id. fol. 137.* No *privy* was between me and the Tenant, *Littelm. fol. 106.* If I deliver Goods to a man, to be carried to such a place, and he after he hath brought them thither, doth Real them; it is Felony, because the *privy* of delivery is determined as soon as they are brought thither, *Stam. pl. cor. lib. 1. cap. 15. fol. 25.* Merchants *privy* be opposite to Merchants *Strangers*, 2 E. 3. 9. & 14. The Author of the *New Terms of the Law* maketh divers sorts of *privies*, viz. *Privies in Estate*, *Privies in Debt*, *Privies in Law*, *Privies in Right*, and *Privies in Blood*; where you may read examples of each of them in the word *Privy*. See *Perkins 821, 832, 833.* and *Co. lib. 3. fol. 23.* *Walker's Case*, and *lib. 4. fol. 123, 124.* mentions four kinds of *Privies*, viz. *Privies in Blood*, as the Heir to his Father. *Privies in Representation*, as Executors or Administrators to the deceased. *Privies in Estate*, as he in the Reversion, and he in the Remainder, when Land is given to one for life, to another in fee, for that their Estates are created both at one time. The fourth is *privy in Tenure*, as the Lord by escheat, that is, when the Land escheateth to the Lord for want of Heirs. See *Co. on Lit. lib. cap. 8. fol. 161.*

Privy Seal, *Privatum sigillum*, Is a Seal that the King useth to such Grants, or other things, as pass the Great Seal; first they pass the *Privy Seal*, then the *Privy Seal*; and lastly, the Great Seal of England. The *Privy Seal* is sometimes used in things of less consequence, that never pass the Great Seal. No Writs shall pass under the *Privy Seal*, which touch the Common Law, 2. *Inst. fol. 555.*

Privilege, *Privilegium*, Is defined by Cicero in his Oration *pro domo sua*, to be *lex privata bonis irrogata*. It is, says another, *Jus singulare*, whereby a private man, or a particular Corporation, is exempted from the rigor of the Common Law. It is sometimes used in the Common Law for a place that hath any special impunity, *Kitchin, fol. 118.* *Privilege* is either personal or real; a personal *privilege* is that which is granted to any person either against or beyond the course of the Common Law: As for Example, A Member of Parliament may not be arrested, nor any of his Servants, during the sitting of the Parliament; nor for a certain time before and after. A *privilege real*, is that which is granted to a place, as to the Universities, that none of either may be called to Westminster-Hall, upon any Contract made within their own Precincts, or prosecuted in other Courts: And one belonging to the Court of Chancery cannot be sued in any other Court, certain Cases excepted, and if he be, he may remove it by Writ of *Privilege*, grounded upon the Stat. 18 E. 3. See the *New Book of Entries*, verbo *Privilege*.

Privy, *Privatus*, Private Familiarity, inward Relation: If there be Lord and Tenant, and the Tenant holds of the Lord by certain Services, there is a *privy* between them in respect of the Tenure. See *Privy*.

Probate of Testaments, *Probatio Testamentorum*, Is the exhibiting and proving Wills and Testaments before the Ecclesiastical Judge, Delegated by the Bishop, who is Ordinary of the place, when the party dies. And the Ordinary is known by the quantity of the Goods that the deceased hath out of the Diocese wherein he departed; for if all his Goods be in the same Diocese, then the Bishop of the Diocese, or the Arch-deacon (according as their composition or prescription leads) hath the power of the *Tribunal*: But if the Goods be dispersed in divers Dioceses, so that there be any sum of more (as five pounds ordinarily) out of the Diocese where the party lived; then is the Archbishop of Canterbury the Ordinary by his *Procurator*. See *Probatio of Wills*, verbo *Probatio*. This *Probatio* may be made in two sorts, *in common form*, or *in special*. The *probatio in common form* is only by the Oath of the Executor or party exhibiting the Will, who swears both upon his belief, That the Will exhibited by him, is the last Will and Testament of the deceased. The *probatio in special* is, when over and besides his own Oath, he also produces Witnesses, or makes other proof to confirm the same, and that in the presence of such as may pretend any interest in the Goods of the deceased, or at least in their absence, after they have been lawfully summoned to see such a Will proved, if they think good. And the later course is taken most commonly when there is fear of strife, or dispute about the deceased's Goods. For some hold that a Will proved in common form only, may be called in question any time within thirty years after. And where a Will disposes of Lands and Tenements of Free hold, it is now frequently proved by Witnesses in Chancery.

Procedendo, Is a Writ whereby a Plea or Cause, formerly called from a base Court to the Chancery, King's Bench, or Common Pleas, by Writ of *Privilege* or *Certiorari*, is released and sent down again to the same Court, to be proceeded in there, after it appeareth that the Defendants hath no cause of *Privilege*, or that the matter comprised in the Bill be not well proved, *Bro. de Titulo, and Co. vol. 6. fol. 63.* In 2. *Rub. 2. cap. 11.* in fine, Letters of *Procedendo* granted by the Keeper of the *Privy Seal*. See in what divers manners it is used in the Table of the Original and Judicial Writs, Anno 21. *Jac. cap. 23.*

Processe, *Processus*, So also a *procedendo* ab initio assy, ad finem, is the manner of proceeding in every Cause, being the Writs and Precepts that go forth upon the Original upon every Action, being either Original or Judicial, *Britton, fol. 138.* wherein there is great diversity, as you may see in the Table of F.R.B. verbo *Processe*, and *Broke de lib. lib.* Sometimes that only is called *The processe*, by which a man is called into the Court, because it is the beginning or the principal part thereof, by which the rest of the business is directed, according to that saying of Aristotle, *si deus auctor sit trasfor.* Divers Kinds of *Processe* upon Indite-ments, see in *Crompt. Just. of Peace, fol. 133, 134, 135.* and Lamb. in his Tractate of *Processe*, adjoining to his *Extremities*. Special *Processe* is that which is especially appointed for the Offence by Statute, for which he refers his Reader to the Eighth Chapter of his Fourth Book. The difference

rence between *proceſs* and *proceſſor*; *proceſſor* of the Juſtices, is this, *the proceſſor* or *proceſſor* is only to attach and condemn the party before any Indictment or Conviction, and may be made either in the Name of the King, or the Juſtice. But the *proceſſor* is always in the King's Name, and uſually after an Indictment, *Co. 8. Rep. Blackmore's Caſe.*

Prochein amicus, *Proximus amicus vel proprius quior*, The next Friend, is uſed in the Common Law for him that is next of Kin to a Child in his Norage, and is in that reſpect allowed by Law to deal for him in the managing his Affairs; as to be his Guardian, if he hold any Land, in ſeignage and in the redreſſe of any wrong done to him, *Stat. Wiſt. 12. cap. 2. and Wiſt. 2. cap. 13. and is in the proſecution of any Action at Law per Guardianem*, where the Plaintiff is an Infant; *is per proximam amicum*, where the Infant is Defendant. See *Co. 2. Inſt. fol. 261.*

Proceſſum continuandum, is a Writ for the continuance of a *proceſſus*, after the death of the chief Juſtice, or other Juſtice in the Writ of *Opus and Terminum Regiſt. Orig. fol. 122.*

Proceſſus in quibus, is uſed for an Enqueſt, *Anno 28 E. 3. cap. 13.*

Proclamation, *Proclamation*, is a notice publicly given of any thing, whereof the King thinks fit to advertiſe his Subjects; and ſo it is uſed, *Rich. 2. cap. 6.*

Proclamation of Rebellion, is a publick Notice given by the Officer, that a man not appearing upon a *Subpoena*, nor an Attachment in the Chancery, ſhall be reputed a Rebel, unleſs he render himſelf by a day assigned in this Writ, *Comp. Jur. fol. 92. See Comitiſſion of Rebellion.*

Proclamation of a Fine, is a Notice openly and ſolemnly given at all the *Aſſiſes* held in the County, within one year after the engroſſing it. And theſe *Proclamations* are made upon tranſcripts of the Fine, ſent by the Juſtices of the Common Pleas to the Juſtices of *Aſſiſe* and the Juſtices of Peace. *Wiſt. Symbol. 2. par. tit. Fine, ſect. 132.* where alſo you may ſee the form of the *Proclamation*, *Proclamatione ſit valde & palam clariore*, *P. N. B. fol. 85. ſayes*, That the King's *Proclamation* is ſufficient to ſtay a Subject from going out of the Realm. See the ſtrength of *Proclamations*, *Anno 31 H. 8. cap. 8.* See alſo *Proclamations* in divers caſes, *New Book of Entries*, verbo *Proclamations*.

Proctor, *Procurator*, is he who undertakes to manage another man's Cauſe in any Court of the Civil Law or Eccleſiaſtical, for his Fee, *Quaſi aliena negotia gerenda ſuſcipit*.

Pro confeſſo, is, when upon a Bill exhibited in Chancery, the Defendant appears, and is in contempt for not answering, and is in cuſtody; upon a *Habeas Corpus* (which is granted by Order) to bring him to the Bar, the Court assigns him a day to Answer, which being expired, and no Answer put in, a ſecond *Habeas Corpus* is granted, and a further day assigned; by which day, if he Answer not, the Bill, upon the Plaintiffs motion, ſhall be taken *pro confeſſo*, unleſs cauſe be ſhewed by a day, which the Court uſually gives; and for want of ſuch cauſe ſhewed upon motion, the ſubſtance of the Plaintiffs Bill ſhall be decreed, as if

it had been confeſſed by the Defendants Answer. As it was in the Caſe of *Filmare and Deany*, Hill. 1662. Crafter a fourth inſufficient Answer to the Bill, the matter of the Bill not ſufficiently answered unto, ſhall be taken *pro confeſſo*.

Proctors of the Clergy, *Procuratores Cleri*, Are thoſe who are choſen and appointed to appear for the Cathedral; or other Collegiate Churches; as, alſo for the Common Clergy of every Dioceſs at the Parliament, to ſit in the Lower-Houſe of Convocation; and this is the manner of their Election. Firſt, The King directeth his Writ to the Archbiſhop of each Province, for the ſummoning of all Biſhops, Deans, Archdeacons, Cathedral and Collegiate Churches, and generally of all the Clergy of his Province, assigning them the time and place in the ſaid Writ: Then the Archbiſhops proceed according to cuſtom; One example ſhall ſerve for both. The Archbiſhop of *Canterbury* upon his Writ received, directeth his Letters to the Biſhop of *London*, as his Dean Provincial: Firſt, citing himſelf peremptorily, and then willing him to cite in like manner all the Biſhops, Deans, Archdeacons, Cathedral and Collegiate Churches, and generally all the Clergy of his Province to the place; and againſt the day prefixed in the Writ; but directeth withal, that one *Proctor* be ſent for every Cathedral or Collegiate, and Two for the Biſhop of the inferior Clergy of each Dioceſs: And by Vertue of theſe Letters authentically ſealed, the ſaid Biſhop of *London* directeth his like Letters ſeverally to the Biſhop of every Dioceſs of the Province, citing them in like fort, and commanding them not only to appear, but alſo to admoniſh the ſaid Deans and Archdeacons perſonally to appear, and the Cathedral or Collegiate Churches, as alſo the Common Clergy of the Dioceſs to ſend their *Proctors* to the place at the day appointed; and alſo willet them, to certiſie the Archbiſhop the Names of all and every ſo warned by them in a Schedule annexed to their Letter certiſicatory. The Biſhops proceed accordingly, and the Cathedral and Collegiate Churches, and alſo the Clergy make choice of their *Proctors*; which done, and certiſied to the Biſhop, he returneth all at the day. Theſe *Proctors* of the Clergy had heretofore place and ſuffrage in the Commons Houſe of Parliament, as appears by the Statute 21 R. 2. cap. 2. & 12. See *Procurator* and *Convocation*, and ſee 4. Inſt. fol. 4.

Procurations, *Procuraciones*, Are certain ſums of Money which Pariſh Priests pay yearly to the Biſhop or Arch-deacon, *ratione viſitationis*. They were antiently paid in neceſſary Viſuals, for the Viſitor and his Attendants, but afterwards turn'd into Money. *Procuratio* is defined by *Valleſius* to be *Necceſſarium ſumptuum exhibitio, quae ratione viſitationis, debetur ab Eccleſia vel Monasterio ei cui ex officio incumbit ius & onus viſtandi, ſive in ſit Episcopopus, ſive Archidiaconus, ſive Decanus, ſive Legatus ſummi Pontificis*, Anno 1290. Memorandum, *Quod die Mercurii in feſto ſanctae Lucae Evang. Dominus Episcopopus cepit procuracionem ſuam in cibis & potibus apud Bordesley & pernoctavit ibidem*, Giff. fol. 226. See an *Hiſtorical Diſcourſe of Procurations and Symonds*, Printed 1661. Theſe are alſo called *Proweys*; ſee *Dyer*, fol. 273. and *Claus. Ret.* 31 E. 1. m. 15. *Dorſe*.

Procurator,

Procurator. Is used for him that gathereth the Fruits of a Benefice for another man, Anno 3. R. 2. stat. 1. cap. 3. and *Procurator*, for the Writing or Instrument whereby he is authorized: They are at this day in the West parts called *Proffors*. See *Proffor*.

Procurator. See *Malvey's Proffors*.

Profer. *Proferum vel proferum*, From the French *Proferer*, i. *producere*, Is the time appointed for the Accounts of Sheriffs, and other Officers in the Exchequer, which is twice in the year, Anno 51 Hen. 3. stat. 5. which may be gathered also out of the *Register*, fol. 139. in the Writ *De Attornato Vice-comitis pro proffo faciendo*. We read also of *proffers*, 32 H. 8. 21. in these words, *Whitson Term shall begin the Monday next after Trinity Sunday, whensoever it shall happen to fall, for the keeping of the Chances, Proffers, Returns, and other Ceremonies heretofore used and kept*. In which place *proffor* signifies the offer or endeavor to proceed in an Action by any man concerned so to do. See *Bracton*, cap. 28. fol. 50. v. 55. & 80. and *Pleta*, lib. 1. cap. 38. sect. *Ultimatus*, &c.

Profer the half-mark. See *Half mark*.

Profession. *Professio*, Is in the Common Law used particularly for the entering into any Religious Order of Fryers, &c. *New Book of Entries*, verbo *Profession*.

Proffis appendre. See *Prender*.

Prohibition. *Prohibitio*, Is a Writ to forbid any Court, either Spiritual or Secular, to proceed in any Cause there depending, upon suggestion, that the Cognizance thereof belongeth not to the same Court, *F. N. B.* fol. 39. But is now most usually taken for that Writ which lyeth for one that is impleaded in the Court Christian, for a Cause belonging to the Temporal Jurisdiction, or the Conuallance of the Kings Court, whereby as well the party and his Council, as the Judge himself and the Register are forbidden to proceed any further in that Cause. In what Cases this lyeth, see *Bro. hoc tit.* & *F. N. B.* fol. 93. Of this *Prohibition*, *Bracton*, lib. 5. tract. 5. cap. 3, 4, 5, 6, 7, 8, 9, 10, 11, 12. saith, That it lies not after Sentence given in any Cause: And the Statute of 50 E. 3. Ordains, That there should lie no more than one *prohibition* in one Cause. See the diversity of *Prohibitions* in the Table of the *Register Original*, and the *New Book of Entries*, verbo *Prohibition*, and *F. N. B.* fol. 39.

Prohibitio de vasso directa parti, Is a Writ Judicial directed to the Tenant, prohibiting him from making waite upon the Land in controverfie, during the Suit, *Reg. Judic.* fol. 21. It is sometimes made to the Sheriff; the example whereof you have in the same Book following.

Pro indiviso, Is a possession or occupation of Lands or Tenements, belonging to two or more persons, whereof none knows his several portion, as *Coparceners* before partition, *Bracton*, lib. 5. tract. 2. cap. 1. num. 7.

Proles, In English *Progeny*, Is properly such as proceed from a lawful Marriage; though,

if the word be taken at large, it may well denote the issue of an unlawful Bed.

Prolocutor of the Convocation House. *Prolocutor Domus Convocationis*, Is an Officer chosen by persons Ecclesiastical, publicly assembled by Vertue of the Kings Writ for every Parliament; and as there be two Houses of Convocation, so there are two *Prolocutors*, one of the Lower, and one of the Higher House; He of the lower House, presently, upon the first Assembly, by the motion of the Bishops, being chosen by the Members of the said lower House, is presented to the Bishops for *Prolocutor*, that is, the person by whom they intend to deliver their Resolutions to the higher House, and to have their own House especially ordered and governed. His Office is to cause the Clerk to call the Names of such as are of that House, when he sees cause, to read all things propounded by their Suffrages, and the like.

Promissa. *Promissio*, Is, when upon a valuable consideration, we bind our selves by our words to do or perform such an Act as is agreed upon and concluded, upon which an Action may be grounded; whereas, if it be without consideration, it is called *Nudum pactum*, *ex quo non oritur actio*.

Promotores, or rather *Promotores*, *Promotores*, Are those, who in popular and penal Actions do prosecute Offenders in their own Name and the Kings, having part of the Fines or Penalties for their reward. These, among the Romans, were called *Quadruplatarii* or *Delatores*. They belong especially to the Exchequer and Kings Bench, *Smith de Rep. Angl.* lib. 2. cap. 14. Coke calls them *Turbidum hominum genus*, 3. Inst. fol. 191.

Promulge a Law. *Promulgare Legem*, Is first to make a Law, and then to declare, publish, and proclaim the same to publick View, and so *Promulged*, *promulgatus* is published, proclaimed, 6 H. 8. 4.

Pronotary or Protonotary. *Protonotarius vel primus notarius*, Is a chief Officer of the Common-Pleas and Kings Bench, derived from two French words *Reime*, *primus*, & *Notary*, *notarius*. See 5 H. 4. 14. He is termed a chief Clerk of the Common-Pleas. He of the Kings Bench Records all Actions civil sued in that Court, as the Clerk of the Crown Office doth all criminal Causes. Those of the Common-Pleas, since the Order of 14 Jac. upon an Agreement made between the *Prothonotaries* and *Filacers* of that Court (who before did enter all Declarations and Pleas, whereto a Sergeants hand was not required,) do enter and enroll all manner of Declarations, Pleadings, Assises, Judgments and Actions: Also they make out all Judicial Writs, as the *venire facias* after issue joyned, and *Habeas corpus* for the bringing in of the Jury, and *Disfringas* *Tutorator*. They also make out Writs of Execution and Seisin; Writs of *Superfedem* for appearance to *Exigents*, as well as the *Exigents* and Writs of *Privilege*, for removing Causes from other Inferior Courts of Record, where the party hath cause of privilege; also Writs of *Procedendo* and *Scire facias* in all Cases, and Writs to enquire of Damages, and all process upon *Prohibitions*, and upon Writs of *Audita Querela*, and *falso Judicium*.

with many others. Lastly, They enroll all Recognizances acknowledged in that Court; and all common Recoveries, and may make exemplifications of any Record in the same Term, before their Rolls are made up and delivered into the Treasury of Records of that Court.

Prose, Probatio: *Bracton* says, There is *Probatio duplex*, viz. *viva*, as by Witnesses, *viva voce*; and *Morta*, by Deeds, Writings, &c. A Wife cannot be produced either against or for her Husband, *quia due sunt animi in carne una*, and it might be a cause of irreconcilable discord, and a mean of great inconveniencies, *Co. on Lit. lib. 1. cap. 1. sect. 1.*

Pro partibus lherandis, Is a Writ for the partition of Lands between Co-heirs, *Reg. orig. fol. 316.*

Property, Proprietas, Is the highest Right that a man hath, or can have to any thing, and no wayes depending upon any other mans curtesie. And this note in our Kingdom can be said to have in many Lands or Tenements, but only the King in the right of his Crown; Because all the Lands throughout the Realm are in the nature of Fee, and hold either mediately or immediately of the Crown. This word nevertheless is used for that right in Lands and Tenements that common persons have, because it importeth as much as *fructus Dominium*, though not *directum*. See *Pec.* And there are three manners of Rights of property, that is, Property *absolute*, Property *qualified*, and Property *possessory*. Of which see at large *Co. lib. 7. fol. 17. Case of Swans.*

Propositio, Skenes de verbor. Signif. latines it *Propositio assse*, the Declaration of Deliverance of an Assise; otherwise called *Verdictum Assse*, the Verdict of an Assise, because the Assisors are sworn to declare the Truth, and therefore are called *Juratores*, Jurors.

Prophecies, Prophetia, Are by our Statutes reputed for wizardly foretelling of things to come in dark and ambiguous Speeches; where by great Commotions have been often caused in this Kingdom, and great Attempts made by those to whom those Speeches promised good success, *Anno 3 E. 6. cap. 15. and 7 E. 1. cap. 11. and 5 E. 1. cap. 19.* But these for distinction sake are called *Fond, false and fantastical Prophecies*, *3. Inst. fol. 128.*

Proprietary, Proprietarius, Is he that hath a property in any thing, *que nullius arbitrio est obnoxia*; but was heretofore chiefly used for him that hath the Fruits of a Benefice to himself, and his Heirs or Successors, as in time past Abbots and Priors had to them and their Successors. See *Appropriation.*

Propounders, The 85 Chapter of Coke's 3. Institutes, is entituled, *Against Monopolists, Propounders and Protestors*; where it seems only to be used as a Synonima to Monopolists.

Proprietate probanda, Is a Writ that lies for him that would prove a property before the Sheriff, *Reg. Orig. fol. 83. 85.* For where a Property is alledged, a *Replegiare* lyeth not, *Broke, Property 1.*

Pro rata, That is, *pro proportione*, *16 Car. 2. cap. 6.* *Pro rata portionis.* See *Onerando pro rata portionis.*

Prologue, Prologare, To prolong, or put off to another day, *Anno 6 H. 8. cap. 8.* The difference between a *Prologation* and an *Adjournment*, or continuance of the Parliament, is, That by the *prologation* in open Court there is a Session, and then such Bills as passed in either House, or both Houses, and had not the Royal assent to them, must at the next Assembly begin again; for every Session of Parliament is in Law a several Parliament, but if it be but adjourned or continued, then is there no Session, and consequently all things continue in the same state they were in before the *Adjournment*, *4. Inst. fol. 27.*

Prosecutus, Is he that follows a cause in anothers Name. See *Promoters.*

Protection, Protectio, Hath a general and a special signification: In the general, it is used for that benefit and safety which every Subject, Denizen or Alien, especially secured hath by the King's Laws, and so it is used *25 E. 3. 22.* *Protection* in the special signification, is used for an Exemption or Immunity given by the King to a person against Suits in Law, or other vexations, upon reasonable Causes him thereunto moving, which is a branch of his *Prerogative*. And of this Fitzherbert in his *Nat. Brev. fol. 28.* maketh two kinds, the first he calls a *Protection, cum clausula Volumus*, whereof he mentions four particulars; 1. A *protection quia professurus*, for him that is to pass over Sea in the King's Service. 2. A *Protection quia moraturus*, for him that is abroad in the King's Service upon the Sea, or in the Marches, *7 H. 7. cap. 2.* 3. A *Protection* for the King's Debtor, that he be not sued, or attached till the King be paid his Debt. This some civilians call *Moratorium*. And 4. A *Protection* in the King's Service beyond the Sea, or on the Marches of Scotland, *Anno 1 R. 2. cap. 8. Reg. Orig. fol. 23. and Britton, cap. 123.* The second form of *Protection*, is *cum clausula Nolumus*, which is granted most commonly to a Spiritual Company for their Immunity, from taking of their Cattel by the King's Ministers: But it may be granted also to one man Spiritual or Temporal, *Reg. Orig. fol. 22, 23.* None of these *Protections* extend to *Pleas of Dower, Quare Impedit, Assse of Novel Disseisin, Darrein Presentment, and Attaints and Pleas before Justices in Eyre.* See the *Termes of the Law, verbo Protection*, and *New Book of Entries* of this word.

Protosessorarius, Was he whom our King heretofore made chief of *Windsor Forest*, to hear all Causes of Death or Mayhem there, *Cam. Brit. pag. 213.* A kind of a Lord chief Justice in Eyre.

Protonotary, Protonotarius. See *Promotary.*

Protection, Protestatio, Is (as Justice *Walsley* defines it) a defence or safeguard to the party which maketh it from being concluded by the act he is about to do, that issue cannot be joyned by it, *Plowd. fol. 276.* whereof see *Reg. Orig. fol. 306.* And see *Protest.*

Protest, Protestari, Hath two divers Applications; one is by way of Caution, to call Witness (as it were) or openly to affirm, That he doth either not at all, or but conditionally yield his consent to any act, or unto the proceeding of a Judge in a Court, wherein his Jurisdiction is doubtful, or to answer upon his Oath further than by

by Law he is bound. See *Plowden*, fol. 276. *Gresbrook's Case*, and *Reg. Orig.* fol. 306. The other is by way of complaint, to *protest* a mans Bill. for example, If I give Money to a Merchant in France, taking his Bill of Exchange to be repaid in England by one whom he assigneth; if at my coming, I find not my self satisfied, but either delayed or denied, then I go to the *Exchange*, or other open Concourse of Merchants, and *protest*, That I am not paid; and thereupon if he hath any Goods remaining in any mans hands within the Realm, the *Law of Merchants* is, that I be paid out of them to my full satisfaction.

Prover, Probator, Anno 28 E. 1 and 5 H. 4. cap. 2. See *Approvers*, and 3. *par Inst. fol. 129.* A man became an *Approver*, and appealed five, and every of them joyntly battel with him: *Et duellum percussum fuit cum omnibus & probator devicit omnes quinque in duello, quorum quatuor suspenderantur, & quintus clamabat esse clericum & allocutur, & probator pardonatur*, Mich. 39 E. 3. *coram Rege*. Rot. 97. Suff.

Province, *Provincia* Was used among the Romans for a Country, without the limits of Italy, gained to their subjection by the Sword: Whereupon that part of France next the *Alpes* was so called of them, and still retains the Name: But with us a *Province* is most usually taken for the Circuit of an Archbishops Jurisdiction, as the *Province of Canterbury*, and the *Province of York*, 32 H. 8. 23. and 33 H. 8. 31. yet it is also divers times used in our Statutes for several parts of the Realm, and sometimes for a Country. In *placito Agnetis quæ fuit uxor Radulphi de Buttiler versus priorem de Repindon, pro terra in Pykinton*, Prior. dicit, quod nulla villa est in Provincia illa quæ sic vocatur, *Placit. de Juratis & Assitis apud Derby* Pasch. 53 H. 3. Rot. 2.

Provincial, *Provincialis*, Is a chief Governor, of a Religious Order of Fryers, &c. 4 H. 4. 17.

Provision, *Provisio*, Is used with us as in the Canon Law, for the providing of a Bishop, or any other person, an Ecclesiastical Living, by the Pope, before the Incumbent be dead: It is also called *Gratia expectativa*, or *Mandatum de providendo*: The great abuse whereof you may read not only in *Daarenus de sacris Ecclesiæ Ministeriis & beneficiis*, lib. 3. cap. 2. but also in divers Statutes of this Realm, viz 35 E. 3. 22 stat. 4. & 5. commonly called the Statute *De provisionibus*, & 27 E. 3. cap. 1. & 38 E. 3. stat. 2. cap. 1. 2. 3. 4. & 2 Rich. 2. cap. 7. 3 R. 2. cap. 3. 7 R. 2. 12. 12 R. 2. stat. 2. cap. 2. 3. 4. & 3 H. 5. cap. 4. See *Præmunire*.

Provisor, Is he that sues to the Court of Rome for a provision, which is called *Gratia expectativa* according to *Spelman*. See also *Old Nat. Brev.* fol. 143. they were prohibited by Proclamation 42 Hen. 3 Anno 1258. *Hill. Pag 259.* It is sometimes also taken for him that hath the care of providing things necessary, a Purveyor. See *Provision*.

Proviso, Is a Condition inserted into any Deed, upon the observance whereof the validity of the Deed depends: Sometimes it is only a Covenant, Co. 2 Rep. Lord *Cromwell's Case*. It hath also another signification in matters Judicial, as if the Plaintiff or Demandant desist in prosecu-

ting an Action by bringing it to a Tryal: The Defendant or Tenant may take out a *Venire facias* to the Sheriff, which hath in it these words, *Provisio quod*, &c. to this end, that if the Plaintiff take out any Writ to that purpose, the Sheriff shall summon but one Jury upon them both: In which Case we call going to Tryal by *Proviso*. See *Old Nat. Brev.* fol. 159. in the Writ *Nisi prius*.

Purchase. See *Purchase*.

Provost Marshal, An Officer in the King's Navy, who hath charge of the Prisoners taken at Sea, 13 Car. 2. cap. 9. and is sometimes used for the like purpose at Land, or to seise or arrest any within the Jurisdiction of his place or Office.

Protege. See *Senega*, Haply it may be the payment of Proxies or Procurations, *sed quare*.

Purpess, Are yearly payments made by Parish-Priests to their Bishop or Arch-deacon, *ratione visitationis*. See *Procurations*, and the Case between the King and Sir Ambrose Forth, 2 Jac. in the *Exchequer*. See also Sir Jo. Davis Rep. fol. 4.

Purp, Is a kind of Service or Tenure. -- *Nicholas filius & heres Nich. de Longford Chivaltier, tenet 4. Messuagia, 40. Acres terra, 10 Acres prati & 60 s. redditus cum pertinentiis in Kinwaldmerih de Rege in Capite, per servitium invenendi unum equum, unum saccum & unum Purp in Guerra Wallie quando cunque contigerit Regem ibi guerrare*, Mich. Fines, 1 Rich. 2. Derb. fol. 204.

Publick Faith, *Fides publica*, 17 Car. 1. cap. 18. Was a Rebellious Cheat to get Money from the seduced People, upon (as they call'd it) The publick Faith of the Nation to make a most abhorrid and causeless Rebellion against a most Religious and Gracious Sovereign, which was about the Year, 1642.

Pucellage, *Pucellagium*, French *Pucelage*, Virginity — *Quod tenuit eam, dum idem B. abstulit pucellagium junni vel quod concubuit cum ea*, Bract. lib. 3. tract. 2. cap. 28. num. 2, 3, & 5. In an ancient M. S. it is written *Puellagium*. In *placito pro raptu sic continetur — quod ipsam de puellagio suo felonice & totaliter defloravit*. Inter *Placit.* Mich. 19. E. 3. London 159.

Pudhepec. *Si Pudhepec* (i. nemoris læsio) parco Regis vel Foreste fiat 30. manc. emendetur, nisi propositio propensior amplius exigat. Leg. Hen. 1. cap. 38. But the learned *Spelman* thinks it is miswritten, for the Saxon pudhepec, i. *Wudhepec*; the in that Character being like the p in Ours.

Pudzeld, The same with *Wordgeld*, Co. on Lit. fol. 233. And haply the like mistake in the first Letters of this as of the former word.

Puisne, Younger, *Puny*. See *Mulier*.

Pundbrech, Derived from the *Pund*, *Parcus*, and *Brech*, *fractura*. *Si Pundbrech fiat in Curia Regis plena wyta fit, alibi quinque manca*, Leg. Hen. 1. cap. 40. It is the illegal taking of Cattle out of the Pound by any means whatsoever.

Purples of a Womans Gown, From the French word *Pourpuler*, 33 H. 8. 5. A sort of Trimming for Womens Gowns then in use; it was made of Tinsel or Gold-Threed, and was also called *Baudkin work*. So Camden, tit. Ireland, speaks of a Mantle or shag Rug, with a deep fringed purple.

Purgation, Purgatio, is the clearing a mans self of a Crime whereof he is generally suspected, and of the same accused before a Judge. Of this there was great use in England touching matter of Felony, imputed to Clerks in former time, as appeareth by *Stamf. pl. cor. lib. 2. cap. 48.* See *Clergy* and *Westm. 1. cap. 2.* It is still observed for matters pertaining to the Ecclesiastical Court, as suspicion, or common fame of incontinency, or such like. And here note, That Purgation is either Canonical, Canonica, or Vulgar, *Vulgaris.* Canonical, is that which is prescribed by the Canon Law; the form whereof is usually thus in the Spiritual Court, The man suspected takes his Oath, That he is clear of the fault objected, and brings so many of his honest Neighbors, being not above Twelve, as the Court shall assign him, to swear upon their Consciences and Credulity, That he sweareth truly. *Vulgar purgation* was by Fire, or Water, or by Combat, used both by Infidels and Christians, till by the Canon Law abolished. But Combat may be still practised by the Laws of the Realm in Causes doubtful; and where there is a want of Evidence, or other proof, if the Defendant chuse rather the Combat than other Tryal. See *Ordel* and *Combat.*

Purificatio beate Mariæ Virginis, Anno 32 H. 8. cap. 21. See *Candlemas.*

Purlue or Purlieu, From the French *Pur*, i. *purus*, and *Lieu*, *locus*, is all that ground near any Forest, which being made Forest by Henry the Second, Richard the First, or King John, were by perambulation granted, but by King Henry the Third severed again from the same, and became *Purlieu*, *Mamwood Forest Laws*, cap. 20. And he calleth this Ground either *pourallee*, i. *perambulationem*, or *purlieu*, *purlay*, which, he saith, are mistaken for *pourallee*, *ibid.* num. 3. And with our first derivation it may consist, because such things as were by those fore-mentioned Kings subjected to the Laws and Ordinances of the Forest, are now cleared and freed from the same. And as the *Civilians* call that *purum locum*, *qui sepulchrorum Religioni non est obstrictus.* So our Ancestors called this *purlieu*, i. *purum locum*, because it was exempted from that Servitude that was formerly laid upon it. And whereas *Mamwood* and *Crompton* call it *Pourallee*, we may derive it from *pur*, *purus*, and *alee*, *ambulatio*, because he that walketh or courseth within that Circuit, is not lyable to the Laws or Penalties incurred by them which hunt within the Precincts of the Forest. See the Stat. 33 Ed. 1. stat. 5.

Purlieu man, Is he that hath Ground within the *Purlieu*, and being able to dispend forty shillings by the year of Free-hold, is upon these two points licensed to hunt in his own *Purlieu*, *Mamwood's Forest Laws*, pag. 151. 157. But what he must observe in his hunting, see the same pag. 180. 181. 186. and cap. 20. num. 5. 8, 9, &c. See *Purlieu.*

Purpresture, Purprestura, From the French *Pourprendre*, i. *integrè arripere*, is properly *subtrahit clandestina terra alienæ, ejusdemque vicinæ ascriptio.* See *Scheme de verbor.* Signif. verbo *Purpresture*, and see *Pourpresture.*

Purprisum, French *Pourpris*, A Close or Enclosure, also the whole compais of a Mannor.

— *Donavi eis meum Purprisum de Kirkeham & domos meas, &c.* Carta Walteri Espee Priorat. de Kirkeham in Mon. Ang. 2. par. fol. 1. 06. n. 40.

Purrell, 25 Eliz. cap. 10. A Lilt ordained to be made at the end of Kersies, to prevent deceit in diminishing their length.

Purty, A Term among Clothiers, 43 Eliz. 10. See *Rewey.*

Pursuivant. See *Poursuivant.*

Purbepance. See *Pourveyance.*

Purbepoys. See *Pourveyors.*

Purbetw, Is a French word, signifying a Gift or Grant, and *Pourveu que*, a condition; that Sir Edward Coke often uses it for that part of an Act of Parliament which begins with *Be it Enacted.* The Stat. of 3 H. 7. stands upon a Preamble and a *Purview*, 12. Rep. fol. 20.

Putage, *Putagium, Fornicatio ex parte feminae, quod vox nulla Latina exprimit, quasi Puttam agere;* from the French *Puttee*, or the Italian *Patta*, i. *meretrix.* This Crime was so odious amongst our Ancestors, that if any Heir-Female under Guardianship were guilty thereof, they forfeited their part to their Co-heirs; or if she were as onely Heiress, the Lord of the Fee took it by Escheat. *Spelman, Quod autem generaliter solet dici putagium hereditatem non adimit, illud intelligendum est de putagio matris; quia filius hæres legitimus est, quem nuptiæ demonstrant, Glanville, lib. 7. cap. 12.*

Puteus, A pit, in former times the Scots were wont to hang Men-delinquents, and to cast the Women Offendors into a pit full of water to drown; and, 'tis a wonder, this punishment, or execution, is not found among the Britains, or rather English Saxons, since 'tis evidently met with among the Germans, from whence they came, as appears by Tacitus, in his Book *De German. moribus*, where he sayes, *Proditores transfugas arboribus suspendunt, ignavos & imbelles & corpore infames (i. fornicantes) ceno ac palude, injecta insuper crate mergunt,* pag. 484.

Putura, A Custome claimed by Keepers, in Forests, and sometimes by Bayliffs of Hundreds, to take Mans-meat, Horse-meat and Dogs-meat, of the Tenants gratis, within the perambulation of the Forest, or Liberty of the Hundred. *Communia de Anno 16 E. 1. Ter. Pasch. Rot. 10. in Dorso Rex mandat Baronibus quod allocent Roberto de Chadworth Vic. Linc. 56s. 7d. quos per preceptum Regis liberavit Jo. de Bellovento pro Putura septem leporariorum & trium falconum & Alanerarium, &c. viz. pro Putura cuiuslibet leporarii & falconis per diem 1d. ob. & pro vadiis, &c.* Plac. Coron. in Com. Ebor. 21 E. 1. Rot. 21. — *In libertate de Knaresburgh presentatur, quod parcerii Comitibus Cornubia percipient Puturam suam, viz. bis comedendo in die vel capiendo pro Putura sua 2d. de tenentibus in diversis villis ibidem nominatis, sed nunc fecit dictus Comes ipsas villas solvere 3d. pro putura.* See 4. Inst. fol. 307.

Pyker alias Pycar, A kind of Ship spoken of 31 E. 3. stat. 2. cap. 2.

Pyrate. See *Pirate.*

Q.

Quadrans, A Farthing, the fourth part of a Penny.

Quadrantata terræ, Is the fourth part of an Acre. See *Denariata terræ & Obolata*. Item Fardel of Land.

Quadragesima Sunday, Is the first Sunday in Lent, so called, because it is about the fortieth day before Easter: The three preceding Sundays are, *Quinquagesima*, *Sexagesima* and *Septuagesima*; all which see in their proper Places.

Quadrugata terræ, A Team of Land, which may be till'd with four Horses.

Quæ plura, Was a Writ that lay where an Inquisition had been made by an Escheator in any County, of such Lands or Tenements as any Man died seised of, and all that was in his possession was imagined not to be found by the Office; the form whereof, see in *Reg. Orig. fol. 293.* and in *F. N. B. fol. 255.* It differs from the Writ called *Melius inquirendum*, according to the same *Fitzherbert*, because this is granted, where the Escheator formerly proceeded by virtue of his Office; and the other, where he found the first Office by virtue of the Writ named *Diem clausit extremum*. See the *New Book of Entries*, verbo *Quæ plura*.

Querens non invenit plegium, Is a return made by the Sheriff upon a Writ directed to him, with this condition inserted, *Si A. fecerit B. securum de clamore suo prosequendo*, *F. N. B. fol. 38.*

Quæ servitia, Is a Writ, see per *quæ servitia*.

Quale jus, Is a Writ Judicial, that lies where a man of Religion hath Judgment to recover Land, before execution be made of the Judgment; for this Writ must go forth to the Escheator, between Judgment and Execution, to inquire whether the Religious person hath any Right to recover, or whether the Judgment be obtained by collusion between the Demandant and the Tenant, to the intent, that the true Lord be not defrauded. See *Wylm. 2. cap. 32.* the form of this Writ you have *Reg. Judic. fol. 8. 16, 17, & 46.* And in the *Old Nat. Brev. fol. 161.* See the *New Book of Entries*, verb. *Quale jus*.

Quam diu se bene gesserit, Is a Clause often used in Letters Patent of the Grant of Offices, as in those to the *Barons of the Exchequer*, which must be intended onely as to matters concerning their Office; and is nothing but what the Law would have implied, if the Office had been granted for life, *Co. 4. Inst. fol. 117.*

Quantum meruit, That is, How much he has deserved; Is an Action of the Case so called, grounded upon a promise to pay a Man for doing any thing, so much as he should deserve or merit.

Quare ejecit infra terminum, Is a Writ that lyeth for a Lessee, where he is cast out of his Farm before his Terme be expired, against the Feoffee or Lessor that ejecteth him: And it differs from the *Ejectione firme*, because this lies

where the Lessor, after the Lease made, infeofeth another, which ejecteth the Lessee: And the *Ejectione firme* lyeth against any other Stranger that ejects him. But the effect of both is all one, that is, to recover the residue of the Terme, *F. N. B. fol. 197. Reg. Orig. fol. 227.* and the *New Book of Entries*, verbo *Quare ejecit infra terminum*.

Quare Impedit, Is a Writ that lies for him that hath purchased a Mannor, with an Advowson thereto belonging, against him that disturbs him the Right of his Advowson, by presenting a Clerk thereto when the Church is void: And it differs from the Writ call'd a *Darrein presentment*, *Assisa ultimæ presentationis*, because that lies where a Man, or his Ancestors, formerly presented; and this for him that is the Purchaser himself. See the *Expositor of the Terms of the Law*, *Old Nat. Brev. fol. 27. Bract. lib. 4. tract. 2. cap. 6. Britton, cap. 92. and F. N. B. fol. 32. and Reg. Orig. fol. 30.* And here note, That where a man may have an Assise of Darrein Presentment, he may have a *Quare Impedit*, but not contrariwise. See the *New Book of Entries* on this Writ.

Quare incumbat, Is a Writ that lyeth against the Bishop, who, within six Months, after the Vacation of a Benefice, conferreth it upon his Clerk, while two others are contending in Law for the Right of presenting. And here note, This Writ alwayes lies depending the Plea, *Old Nat. Brev. fol. 30. F. N. B. fol. 48. and Reg. Orig. fol. 32.*

Quare intrusit matrimonio non satisfacto, Is a Writ that lies for the Lord against his Tenant being his Ward, who after convenient Marriage offer'd him, marries another, and enters nevertheless upon his Land, without agreement first made with his Lord and Guardian. But all Wardships being taken away by the Statute 12 *Car. 2. cap. 24.* This Writ is become useless.

Quare non permittit, Is a Writ that lies for one that has Right to present for a turn against the Proprietary, *Fleta, lib. 5. cap. 6.*

Quare non admittit, Is a Writ that lies against a Bishop, refusing to admit his Clerk that hath recovered in a Plea of Advowson. *F. N. B. fol. 47. and Reg. Orig. fol. 32.* See the *New Book of Entries*, verbo *Quare non admittit*.

Quarel, *Querela*, à *querendo*, and extends not only to Actions personal, but also to mixt; and the Plaintiff in them is called *Querens*, and in most of the Writs it is said *Queritur*; So that if a man release all Quarrels (a Man's Deed being taken most strongly against himself) it is as beneficial as all Actions; for by it all Actions real and personal are released, *Co. lib. 8. fol. 153. and Co. on Lit. lib. 3. cap. 8. sect. 511.*

Quarentine, *Quarentina*, Is a benefit allowed by the Law of England to the Widow of a Man dying seised of Land, whereby she may challenge to continue in his Capital Messuage, or chief Mansion-house, (so it be not a Castle) by the space of forty Dayes after his Decease, *Bracton, lib. 2. cap. 40.* And if the Heir, or any other attempt to eject her, she may have the Writ *De quarentina habenda*, *F. N. B. fol. 161. Maneat vidua in Capitali Messuagio mariti sui per quadraginta dies post obitum mariti sui, infra quos dies assignetur ei dos, nisi pri-*

us assignata fuerit, vel nisi domus illa sit castrum, Magna Charta, cap. 7. See Britton, cap. 103. and Fleta, lib. 5. cap. 23. Skene de verborum Signif. verb. *Quarentena viduarum*, derives this word from the French *Quaresme*, who also have this Custom called *La quaresme des veuves*, granted to Widows after the decease of their Husbands. *Quarentene* also signifies a Furlong, being a quantity of Land containing forty Perches, and so haply derived from the French *Quarente*, forty. In a Charter of *Witblafe* King of the Mercians, mentioned by *Ingulpbus*, we have these Words, -- *uatnor armatas terræ arabilis continentes in longitudine*. 8. *quarentenas* et 8. *quarentenas in latitudine*. *Quarentine* is also the space of forty dayes, wherein any Person, coming from foreign Parts infected with the Plague is not permitted to land, or come on shore, until so many dayes are expired.

Quarentina habenda, Is a Writ that lies for Widow to enjoy her *Quarentine*, Reg. Orig. fol. 175.

Quare obstruxit, Is a Writ that lies for him, who having a liberty to pass through his Neighbors Ground, cannot enjoy his Right, for that the Owner has so strengthened it, Fleta, lib. 4. cap. 26. sect. Item si minus.

Quarteria, A Quarry of Stone, — *Præterea dedi eis Turbariam & Petrariam & quateriam ubicunque invenire potuerint in territorio ville de Hepp, &c.* Mon. Ang. part. 2 fol. 595.

Quarter, *Quarterium*, Eight Bushels stricken make the Quarter of Corn, Anno 15 Rich. 2. cap. 4.

Quarter Sessions, Is a Court held by the Justices of Peace in every County once every quarter of a Year. How far the Jurisdiction thereof exceedeth, see Lamb. Eiren. lib. 4. and Smith de Repub. Anglor. lib. 2. cap. 19. To which you may add the several Statutes of this Realm, by which its power is greatly increased: Originally it seems to have been erected onely for matters touching the Peace, but now it extends much farther. The holding these Sessions Quarterly, was first ordained by the Statute 25 E. 3. stat. 1. cap. 8.

Quash, *Quassare*, Cometh of the French word *Quasser*, id est, cassum facere, to overthrow or annul, Bracton, lib. 5. tract. 2. cap. 3. num. 4. As if the Bayliff of a Liberty return any out of his Franchise, the Array shall be quashd. And Co. on Lit. fol. 156. An Array returned by one that hath no Franchise shall be quashd.

Queubord, Anno 17 E. 4. cap. 2. A kind of Game prohibited by the same Statute, perchance the same with that we now call *Shovel-board*; And it may be *Queuborde* quali *Musickbord*, because the pieces wherewith they play run upon the Table with great celebrity.

Que Estate, Translated *verbatim*, signifies *Quem statum*: In our Common Law it is a Plea, whereby a man intitling another to Land, &c. saith. Tha the same Estate he had, he hath from him: For Example, In a *Quare Impedit*, The Plaintiff alledges, That such four Persons were seised of Lands whereunto the Advowfor in question was appendant in Fee, and did present to the Church, and afterward the Church became void

que estate del, &c. that is, which estate of the four Persons he has now during the Vacation, by virtue whereof he presented, &c. Bro. tit. *Que estate*, fol. 175, 176. New Book of Entries, verb. *Que estate*, and Co. on Lit. fol. 121.

Que est meime, *Verbatim*, Is the same thing, but is used in a legal sense as a Word of art in an Action of Trespals, or such like, for a positive justification of the very Act complained of by the Plaintiff as a wrong: For example, in an Action upon the Case, the Plaintiff sayes, That the Lord threatned his Tenants at will in such sort, that he forced them to give up their Tenures. The Lord, for his defence, pleadeth, That he said unto them, That if they would not depart, he would sue them at Law: This being the same threatening that he used, or to speak artificially, *que est le meime*, the defence is good. Of this, see Kitchin, cap. *Que est le meime*, fol. 236.

Queen, *Regina*, Is either she that holdeth the Crown of this Realm by right of Blood, or else she that is married to the King; which last is called *Queen Consort*. In the former sense she is in all construction the same with the King, and hath the like Power in all respects: In the other signification she is inferior, and a person exempt from the King, for she may sue or be sued in her own Name; yet that she hath is the Kings, and whatever she loses, the King loses, *Stamf. prærog.* cap. 2. fol. 10. in fine, Kitchin, fol. 1, Co. lib. 4. Copyhold Cases, fol. 23.

Queen Gold, *Aurum Regina*, Is a Royal Duty or Revenue belonging to every Queen of England during her Marriage to the King, both by Law, Custom and Prescription, payable by sundry Persons in England and Ireland (upon divers Grants of the King) by way of Fine or Oblation, amounting to ten Marks, or upwards, to wit, one full tenth part above the entire Fine, as ten pounds upon every hundred pound Fine, upon Pardons, Contracts or Agreements; which becomes a real Debt to the Queen by the Name of *Aurum Regina*, upon the parties bare Agreement with the King for his Fine, and recording it, without any Promise or Contract for this tenth part exceeding it, Lib. Nig. Scac. pag. 43, 44. Co. 12. Rep. fol. 21, 22. and *Prynes Treatise* on this Subject thorowout.

Quem redditum reddat, Is a Writ Judicial, that lies for him to whom a Rent-seck or Rent-charge is granted, by Fine levied in the King's Court against the Tenant of the Land that refuseth to attorn to him, thereby to cause to attorn, Old Nat. Brev. fol. 126. West Symbol. part 2. tit. Fines. sect. 156. and the New Book of Entries, verb. *Quem redditum reddit*.

Querela frestæ fortæ, Is a Writ of *Fresh force*. See *Fresh force*.

Querela coram Rege & consilio discutienda & terminanda, Is a Writ whereby one is called to justify a Complaint of a Trespals made to the King himself, before the King and his Council, Reg. Orig. fol. 124.

Questus or rather *Quæstus*, A *quæro*, to seek or get, is taken for that Land which does not descend to us by Hereditary Right, but is gained by our own Labour and Industry; this we call **Purchased Lands**. In Lib. *Ramus* sub

sub Stephano Rege conscript. sect. 140. sub tit. *Questus Ednothi qui floruit tempore Reg. Ethelredi*, We thus read, *Erat illis diebus quidam Elstanus habens duas bidas apud Stapleford, quas frater Ednothus numeratis eidem centum solidis argenti, reliquis questibus suis in possessionem Ecclesie Remensis adiunxit.* And *Glanville*, lib. 7. cap. 1. speaking of Lands, saith, *Aut habet hereditatem tantum, aut questum tantum, aut hereditatem & questum.*

Questus est nobis, Is the form of a Writ of *Nusance*, which, by the Statute 13 E. 1. cap. 24. lies against him to whom the House, or other thing that breeds the *Nusance* is alienated, whereas before the Statute, this Action lay only against him that first levied the thing to the Annoyance of his Neighbour. See the said Statute.

Quia improvide, Seems to be a *Superfedeas* granted in the behalf of a Clerk of the Chancery, sued against the Privilege of that Court in the Common-Pleas, and pursued to the *Exigent*, or in many other cases where a Writ is erroneously sued out. See *Dyer*, fol. 33. n. 18.

Quid juris clamat, Is a Writ Judicial, issuing out of the Record of the Fine, which remaineth with the *Custos brevium* of the Common-Pleas, before it be engrossed; and it lies for the Grantee of a Reversion or Remainder, when the particular Tenant will not return, *West Symbol.* part 2. tit. *Fines*, sect. 118. *Reg. Judic.* 36. 57. and the *New Book of Entries* on this Writ.

Quid pro quo, Signifies *verbasim*, what for what, and is an Artificial Speech, signifying as much as the Greek *ἀνταποδοσις* among the *Civilians*, which is a reciprocal performance of both Parties to a Contract, and thereupon the giving of one thing of a value for another thing of like value, as 10 li. for a Horse, &c. *Kitchin*, fol. 184.

Quietancia *seitz*, *Hundjedi & Wilchmote*, --- Per hæc verba Johannes Stanley Arm. clamat quod ipse & tenentes sui non teneantur venire ad curiam istam, Plac. in Itin. apud Cestriam, 14 H. 7. See *Acquietancia*.

Quietancia *Assisarum super Assisam*, --- Per hæc verba Johannes Stanley clamat quod ipse & tenentes & residentes sui non ponantur in Assis, Jurat. nec magnis Assis, Plac. ubi supra.

Quietus, *Quiet, sine*, acquitted, Is a word used by the Clerk of the Pipe, and Auditors in the Exchequer, in their Acquittances or Discharges given to Accountants; usually concluding with an *abinde recepit quietus*, which is called a *Quietus est*, and mentioned in the Act of General Pardon, 12 Car. 2. 11. and 14 Car. 2. cap. 21. A *Quietus est* granted to the Sheriff, shall discharge him of all Accounts due to the King, 21 Jac. cap. 5.

Quinquagesima Sunday, Is that we call *Shrove Sunday*, and was so named, because it is about the fiftieth day before *Easter*. The reason of the Name you may find in *Durandi rationali Divinorum*, capit. de *quinquagesima*; and we mention it here, because they are frequently spoken of in our ancient Law-writers, as *Britten* 33. and divers others.

Quintime or *Quinzime*, *Decima quinta*, A fifteenth with us, it is a Tax so called, because it is raised upon the fifteenth part of Mens

Lands and Goods. See *Fifteenth and Tax*, 7 H. 7. cap. 5. *Crompton* in his *Jurisd.* fol. 21. saith, That it is more commonly of late raised upon Land, though in some places by Goods also; and it is well known by the Exchequer Roll, what every Town through England is to pay for a *Fifteenth*. Sometime this word *Quintime* is used for the fifteenth day after any Feast, as *Quintime* of St. John Baptist, 13 E. 1. 3. & 18 E. 1. cap. 1.

Quintane, *Quintana*, French *Quintayne* & *Bersant*, a kind of Exercise that young men did, and still do use in some places of this Nation, to try the agility of the Country youth. *Spelman* in his *Glossary* describes it thus from his own Observation, --- *Ejus forma (ut semel aliquando puerulus vidi) hæc est, Erectæ trabi pertica incumbit versatilis uno fide peram dimittens arenâ gravidam; altero tabulam offizam, qua dum à currenti equite fortius hastâ impellitur, perâ violentius circumacta, impellentis colum (in citacis evaserit) fortiter verberat.* But what it was anciently *Mat. Paris* in Hen. 3. sub initio, Anno 1253. thus delivers, *Ex tempore juvenis Lond. statuto pavone pro Bravio ad stadium quod quintana vulgariter dicitur vires proprias & equorum cursis sunt experti.*

Quint-Crad, *Quinto Exaltus*, 31 Eliz. cap. 3. Is the last call of a Defendant, who is sued to the Outlary, where, if he appear not, he is by the Judgment of the Coroners returned *Outlawed*, if a Woman, *waived*. See *Exigent*.

Quinque Portus, *The Cinque-Ports*, Which are *Hastings*, *Romene*, *Herbe*, *Dover* and *Sandwich*; to the first *Winchelsea* and *Rye* belong, which are reckoned as parts or members of the *Cinque-Ports*; other members belonging to the same are, *Sesford*, *Pevenfel*, *Hedley*, *Hammes*, *Wokesborne*, *Cranetbe*, and *Forthelpe*. This Port of *Hastings* is bound to find twenty one Ships, and in each Ship twenty one Men with a Boy. The second Port is *Romene*, and that finds five Ships, in each Ship twenty four Men and a Boy, to this as members belong, *Brombelle*, *Lyde*, *Ofwareston*, *Dengemares* and *Romenbelle*. The third, *Herbe*, finds five Ships, in each Ship twenty one Men and a Boy, to this belongs *Westmethe*. *Dover* the fourth, finds twenty one Ships, in each Ship twenty one Men with a Boy, to which are members, *Folkstan*, *Feverham* and *Mergate*. Lastly, *Sandwich* finds five Ships, in each Ship twenty one Men and a Boy, and it hath as Members *Fordwick*, *Reculver*, *Serré* and *Dale*, the number of all the Ships are 57, the Men in them 1188, the Boys 57. And the Service that the Barons of the *Cinque-Ports* acknowledge to owe, upon the King's Summons every year, if it shall happen, to attend with these Ships fifteen days at their own proper Costs and Charges; so that the first day be reckoned from the time when they put up their Sails, to set out to those parts whither they are to go: And to stay as long as the King pleases at his own charge.

Quite Claim, *Quita clamantia*, Is a Release, or acquitting of a Man, for any Action that he hath, or might, or may have against him. Also a quitting of ones Claim or Title, *Bracton*, lib. 5. tract. 5. cap. 9. num. 9. lib. 4. tract. 6. cap. 13. num. 1.

Quit-Rent, *Quietus redditus*, Is a certain small Rent, payable yearly by the Tenants of most Mannors; upon the payment whereof they are quiet

quit and free, till it becomes due again: This in some ancient Records, according to *Spelman*, is, written *white Rent*, because paid in *Silver*. Hither may be referred what we find in *Lambards Itinerary*, pag. 212. concerning the Tenants of *Christ-Church* in *Canterbury*, dwelling without the Weald.

De redditu 7s. 6d.

De viginti ovib 0s. 1d.

De Gallinis } 0s. 16d.

Et Benerib }

The sum of the whole *Quit-rent* is 8s. 11d.

Quod ei Deforceat, Is a Writ that lies for the Tenant in Tail, Tenant in Dower, or Tenant for terme of Life, having lost by default against him that Recovered, or against his Heir. See *Broke*, *hoc tit. Reg. Orig. fol. 171.* and the *New Book of Entries*, verb. *Quod ei Deforceat*.

Quod permittat, Is a Writ that lies for the Heir of him that is disseised of his Common of Pasture against the Heir of the Disseisor being dead; *Termes de la Ley* §26. *Britton*, cap. 8. says, That this Writ lies for him, whose Ancestor dyed seised of Common of Pasture, or other like thing annexed to his Inheritance against the Deforceor. See *Broke hoc titulo*, *Reg. Orig. fol. 155.* and the *New Book of Entries*, verb. *Quod permittat*.

Quod Clerici non elegantur in Officio Ballivi, &c. Is a Writ that lies for a Clerk, which, by reason of some Land he hath, is made, or in doubt to be made *Bayliff*, *Bedle*, *Reeve*, or some such like Officer. See *Clerico infra sacros*, &c. *Reg. Orig. fol. 187.* and *F. N. B. fol. 175.*

Quod Clerici beneficiati de Cantel. Is a Writ to exempt a Clerk of the Chancery from Contribution towards the Proffors of the Clergy in Parliament, *Reg. Orig. fol. 261.*

Quod Persona nec Prebendarii, &c. Is a Writ that lies for spiritual Persons that are distrained in their spiritual Possessions, for the payment of a Fifteenth with the rest of the Parish, *F. N. B. fol. 176.*

Quod non permittat. See *Consuetudinibus* and *Servitiis*.

Quo Jure, Is a Writ that lies for him that has Land, wherein another challengeth Common of Pasture time out of mind: And it is to compel him to shew by what Title he challenges it, *F. N. B. fol. 128.* and *Britton* more largely, cap. 59. *Reg. Orig. fol. 156* and the *New Book of Entries*, verb. *Quo jure*.

Quo minus, Is a Writ that lies for him that hath a Grant of *Hause-bote* and *Hay-bote* in another mans Woods against the Grantor, making such waste as the Grantee cannot enjoy his Grant, *Old Nat. Brev. fol. 148.* and *Kitchin*, fol. 178. This Writ also lies for the Kings Farmer in the Exchequer, against him to whom he selleth any thing by way of Bargain touching his Farm, or against whom he hath any Cause of personal Action, *Perkins Grants* §. For he supposeth by the Vendees detaining any due from him, he is made less able to pay the Kings Rent. And under this pretence, any one who pays the King a Fee-Farm Rent, may have this Writ against any other person for

any Debt or Damage, and bring the Cause to tryal in the Exchequer.

Quorum, Is a word often mentioned in our Statutes, and much used in Commissions both of Justices of the Peace, and others. As for example, Where a Commission is directed to seven Persons, or to any three of them, Whereof A. B. and C. D. to be Two, there A. B. and C. D. are said to be of the Quorum, because the rest cannot proceed without them: So a Justice of the Peace and Quorum is one without whom the rest of the Justices in some Cases cannot proceed, *Anno 3 H. 7. cap. 3.* and *32 Hen. 8. cap. 43.*

Quo Warranto, Is a Writ that lies against him that usurps any Franchise or Liberty against the King, as to have *Waife*, *Stray*, *Fair*, *Market*, *Court-Baron*, *Leet*, or such like, without good Title, *Old Nat. Brev. fol. 149.* Or else against him that intrudeth himself as Heir into Land, *Bracton*, lib. 4. tract. 1. cap. 2. num. 3. *Bro. hoc tit. 18 E. 1. stat. 2 & 3.* & *Anno 30. ejusdem.* And the *New Book of Entries*, verb. *Quo Warranto*.

Quyke, Was anciently used for a living or quick Beast, as appears by the Will of *John Bracebrige* of *Kinnersbury* Esq; dated 7 H. 8. wherein it is appointed, That his best Quyke should be taken in the name of his Mortuary.

The Quyke of a Boar, Is the Hounds Fee, but what part it is we are unsatisfied; but if we may guess, we think it may denote the Heart, and then doubtless a word corrupted from the French *Caur*, *Skynners Etymologicon*, *Ling. Angl.*

R.

R. Is called *Litera canina*, the Dogs Letter, because it has a jarring sound, such as Dogs use when they sharle; and *Pomponius* writes, That it was first invented by *App. Claudius*, in L. 2. de *Orig. Jur.* See *Vocab. utrinq; juris*.

Rachet, *Rachetum* or (as *Skene*) *Rachatum*, Derived from the French *Rachater* or *Racheter*, *redimere*; It is the same with *Theftibote*, which is the compensation or redemption of a Thief. *Rachetum est thestibute vel redemptio capta pro venditione furum, latronum vel aliorum malefactorum*, *Skene de verb. Sign. verb. Rachetum*.

Racke, *Fidicula*, So called, because Persons are there tortured ut fides inveniat. An Engine in the Tower with Cords and Strings to extort confession from Delinquents: *John Holland* Earl of *Huntington* was by King *Henry the Sixth* created Duke of *Exeter*, and made Constable of the Tower: He and *William de la Poole* Duke of *Suffolk*, and others, intended to have brought in the Civil Laws; for a beginning whereof, the Duke of *Exeter* first brought into the Tower the *Racke* or *Brake*, allowed in many Cases by the Civil Law, and thereupon it was called *The Duke of Exeter's Daughter*, 3 *Inst. fol. 35.*

Rackevinage, *Anno 32 H. 8. 14.* Is a second Vintage, or Voyage, for Wines by our Merchants into France, &c. for rack't Wines, cleansed and drawn from the Lees: From this Voyage our Merchants commonly return about the

the end of December, or beginning of January.

Rade-knights. Vide *Rodeknights*.

Radechenistres, In *Doomsday Book*, Interpretatur pro liberis hominibus, as fol. 18. tit. Glouc. Berchelay---Hii Radechenistres. arabant & hircabant ad Curiam Domini, & ibidem tit. Derhurst, De terra bujus Manerii tenebant Radechenistres, i. liberi homines, forte (saith Spelman) sit idem quod Bractono Radeknights. See Co. on Lit. sect. 117. verb. Sacagium, pag. 86.

Radman, *Doomsday*, tit. Hereffshire, 15. Bordar. Præpositus & unus Radman, &c. It seems to be the same with *Rodeknight*, unless peradventure it be derived from *Reabe Counsel*, and so *Readmans* signifies Counsellors.

Rageman, Is a Statute so called of Justices, assign'd by Edward the First and his Council, to go a Circuit through all England, and to hear and determine all Complaints of injuries done within five years next before Michaelmas, in the fourth year of his Reign.

Ragmans Roll, Sir Richard Baker in his *Chronicle*, fol. 127. saith, That Edward the Third surrendered, by his Charter, all his Title of Sovereignty to the Kingdom of Scotland, restored divers Deeds and Instruments of their former Homages and Fealties, with the famous Evidence called *Ragmans Roll*.

Ragloria, Is a word mentioned in the Charter of Edward the Third, whereby he made his eldest Son Edward Prince of Wales in Parliament at Westminster the Seventeenth year of his Reign, recited by Selden in his *Titles of Honour*, pag. 597. Cum Forestis, Parcibus, Chaseis, Boscis, Warrenis, Hundredis, Comotibus, Ragloriis, Ringeldinis, Wodewardis, Constabulariis, Ballivis, &c. Davies in his *Dictionary* says, That *Raglaw* among the Welsh signifies *Seneschallus*, *Surrogatus*, *Præpositus*.

Rambundt, In the Constitutions of King Canutus, touching the Forest, Art. 30. 'tis said, Item de canibus quod Rambundt vocant.

Ran, Is a Saxon word, and signifies aperta rapina, open or publick Theft, Lamb. Archæol. fol. 125. defines it thus, Ran dicitur aperta rapina, quæ negari non potest. In the Saxon Laws of King Canute, cap. 58. Si in professione militari Ran commiserit, pro facti ratione emendato. Hoveden in the later part of H. 2. speaking of some things which William the Conqueror mended in the Laws of England, saith, Decretum est etiam ibi, ut si Francigena appellaverit Anglicum, de perjurio aut murthero, furto, homicidio, Ran quod dicunt apertam rapinam quæ negari non potest, Anglicus se defendet, per quod melius voluerit, aut iudicio ferri aut duello. So we still say, when a man takes away the Goods of another by open Violence, he hath taken all he could *Rap* and *Ran*.

Range, From the French *Ranger*, to order, dispose of. It is used in the *Forest Laws* both as a Verb, as to *Range*; and a Substantive, as to *make Range*, *Charta de Foresta*, cap. 6. To *Range* also signifies to wander and stray about.

Ranger, Is a sworn Officer of the Forest, of which there are twelve, *Id.* cap. 7. whose Authority is in part described by his Oath set down by *Mammoth*, part 1. pag. 50. but more particularly part 2. cap. 20. num. 15, 16, 17. His Of-

fice chiefly consists in three points, To walk daily through his Charge, to see, hear and inquire; as well of Trespasses as Trespassers in his Bayliwike; To drive the Beasts of the Forest both of Venery and Chase out of the deafforested into the forested Lands: And to present all Trespasses of the Forest at the next Courts holden for the Forest. This *Ranger* is made by the King's Letters Patent, and hath a Fee of twenty or thirty pound paid yearly out of the *Exchequer*; and certain Fee-Deer.

Ransome, *Redemptio*, Is derived of the French *Rancon* or *Reucon*, *redemptio* signifies properly the Sum that is paid for the redeeming one that is taken Prisoner in War: But it is used also for a sum of Money paid for the Pardoning some great Offence, as in the Statute of 1 H. 4. cap. 7. 11 H. 6. 11. and 23 H. 8. cap. 3. where *Fine* and *Ransome* are joined together: But here note; That when one is to make a *Fine* and *Ransome*, the *Ransome* shall be treble to the *Fine*, *Crompt. Just. of Peace*, fol. 142. and Lamb. *Eiren. lib. 4. cap. 16. pag. 556.* Horne in his *Mirror of Justices* makes this difference between *Amerciament* and *Ransome*, that *Ransome* is the redemption of a corporal punishment due by Law to any offence, *Lib. 3. cap. De Amerciament. taxable.* See Co. on Lit. fol. 127.

Rape, *Rapa* & *Rapus*, Is a part of a County, being in a manner the same with a Hundred, and sometimes contains in it more Hundreds than one. As all *Sussex* is divided into six *Rapes* only, viz. Of *Chichester*, *Arundel*, *Brember*, *Lewis*, *Pewsey* and *Hastings*; every of which, besides their Hundreds, hath a Castle, River and Forest belonging to it, *Cantab. Brit. pag. 225, and 229.* These, in other Counties, are called *Hundreds*, *Tythinges*, *Lathes* and *Wapentakes*, *Smith de Rep. Ang. lib. 2. cap. 16.*

Rape, Raptus, Is a Felony committed by a Man, in the violent deflowering of a Woman against her will, be the old or young, *Britton. cap. 1. West. Symbol. part 2. tit. Inditements, sect 54.* hath these words, Copulation violent is termed a *Rape* or *Ravishment* of the Body of a Woman against her will, which is carnal knowledge had of a Woman, who never consented thereunto before the Fact or after. And this in Scotland ought to be complain'd of the same day or night that the Crime is committed, *Stene de verbor. Signif. verb. Raptus*, and his reason is, quia lapsa diei hoc crimen præscribitur. Co. on Lit. lib. 2. cap. 11. sect. 190. says, If the Woman conceive, it is no *Rape*; for she cannot conceive, unless she consent. This Offence is Felony both in the Principal and his Ayders, 13 R. 2. stat. 2. cap. 1. 11 H. 4. cap. 13. 1 E. 4. cap. 1. and *Westm. 2. cap. 13.* and shall not be allowed the benefit of Clergy, 18 Eliz. cap. 7. And *Fleta* says, The Complaint must be made within forty days, or else the Woman may not be heard, *lib. 3. cap. 5. sect. Præterea.* And carnal knowledge of a Woman under ten years old is Felony, 8 Eliz. 6. Of the diversity of *Rapes*, see *Crompt. Justice of Peace*, fol. 43. 44. the Offender is called *Raptor*, a *Ravisher*, and in *Bracton's* time was punished with the loss of his Eyes and Stones, *Quia calorem stupri induxerunt*, 3 Inst. fol. 60. see *Ravishment*. The Civil Law useth *Raptus* in the same signification;

And *rapere virginem vel mulierem est ei vim inferre & violare*. See *Dyer*, Term. Mich. 13 & 14 Eli. pag. 304.

Rape of the Forest, *Raptus Foresta*, Is reckoned among those Crimes, whose Cognisance belongs onely to the King. *Violentus concubitus*, *Raptus Foresta*, *revelationes baronum suorum*, &c. Leg. Hen. 1. cap. 10. Trespas committed in the Forest by violence.

Rapine, *Rapina*, To take a thing in private against the Owners will, is properly Theft; but to take it openly, or by violence, is *Rapine*, 14 Car. 2. cap. 22. and 18 Car. 2. cap. 3.

Raptu hæredis, Is a Writ lying for the taking away of an Heir holding in Socage; of which there are two sorts, one when the Heir is married, the other when he is not; of both these, see the *Reg. Orig.* fol. 163.

Rase, *Raseria*, It seems to have been a measure of Corn now disused. *Toll shall be taken by the Rase, and not by the Heape of Cattel*, *Ordinance for Bakers, Brewers, &c.* cap. 4. *Debentur ei annuatim decem & octo Raseria avena, & sex Raseria bordi*, &c. *Spelman*.

Rassall, Was an eminent and learned Lawyer that lived in Queen *Maries* days, and was a Justice of the Common-Pleas; he made an Abridgment of the Statutes, which bears his name to this day. He was also the Author of the *New Book of Entries*.

Rate-stythe, Is, when Sheep, or other Cattel, are kept in a Parish for a less time than a year, the Owner must pay *Tith* for them *pro rata*, according to the Custom of the Place, *F. N. B. fol. 51. Broke, Difmes 26. Pro rata dicimus, pro proportionem vel proportionaliter*. *Linwood*.

Ratification, *Ratificatio*, A ratifying or confirming; It is used for the confirmation of a Clerk in a Prebend, &c. formerly given him by the Bishop, &c. where the right of Patronage is doubted to be in the King. See *Reg. Orig.* fol. 304.

Ratio, Properly signifies reason; but we take it mostly for an Account, as *reddere rationem*, to give an Account, and so it is frequently used.

Rationabili parte bonorum, Is a Writ that lies for the Wife against the Executors of her Husband, denying her the third part of her Husband's Goods, after Debts and Funeral Charges defrayed, *F. N. B. fol. 222.* who there cites the Eighteenth Chapter of *Magna Charta*, and *Glanville*, to prove that according to the Common Law of England, the Goods of the Deceased, his Debts first paid, should be divided into three parts, whereof his Wife to have one, his Children the second, and the Executors the third; and this Writ lies as well for the Children as Wife, which appears by *Reg. Orig.* fol. 142. Yet it seems to be in use no where, unless the Custom of the Country leads to it. See the *New Book of Entries*, verb. *Rationabili parte bonorum*.

Rationabilibus divisis, Is a Writ that lies where two Lords, in divers Towns, have Seigniories joyning together, for him that findeth his waif by little and little to have been en-

croached upon; against the other that hath encroached, thereby to rectifie their Bounds; in which respect *Fitzherbert* calls it in its own nature a *Writ of Right*. The *Old Nat. Brev.* says, That this is a kind of *Justicies*, and may be removed by a *Pone* out of the County to the Common-Bench. See the form and use hereof in *F. N. B. fol. 128.* and *Reg. Orig.* fol. 157. and *New Book of Entries*, verb. *Rationabilibus divisis*. The *Civilians* call this *Judicium finium Regendorum*.

Ravishment, *Raptus*, Signifies an unlawful taking away either a Woman, or an Heir in ward: Sometimes also it is used in the same sense with *Rape*, which see.

Ravishment de gard, Was a Writ that lay for the Guardian by Knights-service, or in Socage, against him that took from him the Body of his ward. See *F. N. B. fol. 140.* See 12 Car. 2. cap. 24.

Ravisher, *Raptor*, He that defloures a Woman by Violence. See the Penalty for *ravishing*, or being ravisht, afterwards consenting, in the Statute 6 R. 2. cap. 6. See *Rape*.

Rawe, Is a word mentioned *Anno 4 E.*

4. 1. **Rawnge and Rawnger**. See *Range and Ranger*.

Ray, Is a word appropriated to Cloth never coloured or dyed, 17 R. 2. cap. 3. 11 H. 4. cap. 6. and 1 R. 3. cap. 8.

Reafforestation, Is where a Forest hath been disafforested, and again made Forest, as the Forest of *Deane*, by the Statute of 20 Car. 2. cap. 3.

Realty, Is an abstract of *real*, and distinguished from *Personalty*.

Reasonable ayde, *Rationabile auxilium*, Was a Duty that the Lord of the Fee claimed of his Tenants holding by Knights-service, or in Socage, to marry his Daughter, or make his Son Knight, *Westm. 1. cap. 39.* but taken away now. See the Stat. 12 Car. 2. cap. 24.

Reattachment, *Reattachmentmentum*, Is a second attachment of him that was formerly attached and dismissed the Court without day, as by the not coming of the Justices, or some such casualty, *Broke, hoc titulo*, where he makes *re-attachment General and Special*: *General*, is where a man is reattached for his appearance upon all Writs of Assize lying against him, *Bro. ibid. num. 18.* Then *Special* must be for one or more certain, *Reg. Judic.* fol. 35. and *New Book of Entries*, *hoc verbo*.

Rebellion, *Rebellio*, Is a French word, or rather Latine, signifying the taking up of Arms trayterously against the King, be it by natural Subjects, or by others once subdued: Among the *Romans* it denoted a second resistance of such as formerly being overcome in Battel, yielded to their Subjection. The word *Rebel* is sometimes attributed to him that wilfully breaks a Law, 25 E. 3. 6. and 31 E. 3. stat. 3. cap. 2. Sometime to a Villain disobeying his Lord, 1 R. 2. cap. 6. *Commission of Rebellion*. See in *Commission*.

Rebellious Assembly, Is a gathering together of Twelve persons, or more, intending or

or going about, practising or putting in ure unlawfully of their own Authority, to change any Laws or Statutes of this Realm; or to destroy the Enclosure of any Park or Ground inclosed, or Banks of any Fish Pound, Pool or Conduit, to the intent the same shall remain void; or to the Intent unlawfully to have Common, or way in any of the said Grounds; or to destroy the Deer in any Park, or any Warren of Conies or Dove-houses, or Fish in any Ponds; or any House, Barns, Mills, or Bayes; or to burn Stacks of Corn, or to abate Rents, or prizes of Viſuals, Anno 1 Mar. 12. & 1 Eliz. 17. See *West Symbol.* part 2. tit. *Indictments*, sect. 65. and *Crompt. Justice of Peace*, fol. 21.

Rebutter, Cometh of the French *Bouter*, *repeller*, and signifies the same in the Common Law. For example, A man grants Land to the use of himself, and the Issue of his Body, to another in Fee with warranty. And the Donee leaseth out his Land to a third for years; The Heir of the Donor impleadeth, the Tenant alledging, that the Land was in tail to him: The Donee comes in, and by virtue of the warranty made by the Donor, repelleth the Heir, because though the Land was intailed to him, yet he is Heir to the Warrantor likewise; and this is call'd a *Rebutter*, Bro. tit. *Barre*, num. 23. And again, If I grant to my Tenant, to hold *fine impetitione vasti*, and afterward I implead him for wast made; he may debar me of this Action, by shewing my grant: And this also is a *Rebutter*, Bro. *ib.* num. 25. *New Book of Entries*, verb. *Rebutter*, and Co. on *Lit.* fol. 365.

Recaption, *Recaptio*, Signifies a second Distress of one formerly distrained for the same Cause, and also during the Plea grounded on the former Distress: It likewise signifies a Writ, lying for the party thus distrained; the form and farther use thereof, you may see in *F. N. B.* fol. 71. and *Reg. Orig.* fol. 86. *Reg. Judic.* fol. 69. and the *New Book of Entries*, verbo *Recaption*.

Receiver, *Receptor*, Is w^h us as w^h the *Civilians*, commonly used in the evil part for such as receive stollen Goods from Thieves, and conceal them. But annexed to other words, as the *Receiver of Rents*, &c. It signifies many times an Officer of great account belonging to the King, or other great person, *Crompt. Jur.* fol. 18. There is also an Officer called *The Receiver of Fines*, who receives the Money of all such as compound with the King upon Original Writ in *Chancery*, *West Symbol.* part 2. tit. *Fines*, sect. 106. *Receiver of all Offices* accountable, 1 E. 4. cap. 1.

Receiver-General of the Duchy of Lancaster, Is an Officer belonging to the *Duchy Court*, that gathers in all the Revenues and Fines of the Lands of the said *Duchy*, and of all Forfeitures and Assessments, or what else is thence received, Anno 39 Eliz. cap. 7.

Receiver-General of the Court of Wards and Liberties, Was an Officer belonging to that Court; but the Court being taken away by the Stat. 12 Car. 2. cap. 24. that Officer is also out of Doors.

Receiver-General of the Muster Rolls, Anno 35 Eliz. cap. 4.

Receit. See *Resceit*.

Recluse, *Reclusus*, Is one that by reason of his Order in Religion, is shut up; and may not stir out of the House or Cloyster, of whom *Litton* speaks, sect. 434.

Recognisance, *Recognitio*, Cometh of the French *Recognisance*, and is as a Bond or Obligation of Record, testifying the *Recognisor* to owe to the *Recognisee* a certain sum of Money, and is acknowledged in some Court of Record, or before some Judge, Master of the Chancery, or Justice of Peace, &c. 23 H. 8. 6. and those that be meer *Recognisances* are not sealed but enrolled, and execution by force thereof is of all the *Recognisors* Goods or Chattells (except draught Beatt and Implements of Husbandry) and the moyety of his Lands, *West Symbol.* part. 1. lib. 2. sect. 149. and *Reg. Orig.* fol. 146. 151. & 252. See also *Statute-Merchant* and *Statute Staple*. *Recognisance* hath yet another signification, as appears by these words in the Statute, *Whism.* 1. cap. 36. For it is there provided and agreed, That if any man be attainted of *Disseisin* done in the time of the King that now is, with robbery of any manner of Goods or Moveables, by *Recognisance of Assise of Novel Disseisin*, the Judgment shall be, &c. where it is used for the *Verdict* of the twelve men impanelled upon an *Assise*, which twelve are also called *Recognitors* of the *Assise*, *Lit. fol.* 72. So also *Bracton* names them, lib. 5. tract. 2. cap. 9. num. 2. and lib. 3. tract. 1. cap. 11. num. 16. See the Stat. 20 E. 1. Stat. 4. and *New Book of Entries*, verbo *Recognisance*.

Recognisee, Is he to whom one is bound in a *Recognisance*, 11 H. 6. cap. 10.

Recognition, *Recognitio*, An acknowledgment; It is the Title of the first Chapter of the Statute made in the first year of King James. See *Shene de verb. Signif. verb.* *Recognition*.

Recognitione annullanda per vim & turis-tem facta, Is a Writ to the Justices of the Common Bench, for the sending of a Record touching a *Recognisance*, which the *Recognisor* suggests to have been acknowledged by force and duress, that if it be so, it may be annulled, *Reg. Orig.* fol. 183.

Recognitors, *Recognitores*, Is a word frequently used for the Jury impanelled upon an *Assise*: The reason why they are so called, is, because they acknowledge a *Disseisin* by their *Verdict*, *Bracton*, lib. 5. tract. 2. cap. 9. num. 2. & lib. 3. tract. 1. cap. 11. num. 16.

Record, *Recordum*, Cometh of the Latine *Recordari* to remember, and signifies an authentic and uncontrollable Testimony in writing, contained in Rolls of Parchment, and preserved in Courts of Record, and they are said to be *Vetustatis & veritatis vestigia*, Co. *Preface to his 8. Rep.* Britton, cap. 27, and *Lamb. Eiren.* lib. 1. cap. 13. An Act committed to writing in any of the Kings Courts, during the Term wherein it is written, is alterable, being no *Record*; but that Term once ended, and the Act duly enrolled, it is a *Record*, and of that credit, that admits no alteration or proof to the contrary, Bro. *tit.* *Record*, num. 20. 22. yet see Co. 4. *Rep. Rowllins Case.* fol. 52. The King may make a Court of Record by his Grant, *Glawville*, lib. 8. cap. 8. Britton, cap. 121. As Queen Elizabeth by her Charter, dated the 26. of

April, in the third year of her Reign, made the Consistory Court of the University of Cambridge, a Court of Record, Bro. tit. Record, seems to insinuate that no Court Ecclesiastical is of Record, yet we see that Bishops certifying, Bastardy, Bigamy, Excommunication, a Marriage, Divorce, or the like, are credited without farther inquiry, Fleta, lib. 6. cap. 39, 40, 41, 42. Lamb. Eiren. lib. 1. cap. 13. Glanville, lib. 7. cap. 14, 15. Reg. Orig. fol. 5. Bracton, lib. 5. tract. 5. cap. 20. num. 5. Britton, cap. 92. 94, 106, 107, & 109. Doct. & Stud. lib. 2. cap. 5. And a Testament shewed under Seal of the Ordinary is not traversable, 36 H. 6. cap. 31. Perkin's Testament 491. Falbeck's Parallels, fol. 61. The reason of which Opinion may be, because by the Civil or Canon Law no Record is held so firm but that it may be checked by Witnesses able to depose it to be untrue; whereas in our Common Law against a Record of the King's Court, after the Term wherein it is made, no Witness can prevail, Britton, cap. 109. Co. lib. 4. fol. 71. Hind's Case, Lib. Aff. fol. 227. nota 21. We reckon three sorts of Records, viz. A Record Judicial, as Attainder, &c. A Record Ministerial upon Oath, as an Office or Inquisition found. And a Record made by conveyance and consent, as a Fine or Deed enrolled, or the like, Co. lib. 4. fol. 54. b. Ognew's Case.

Recordare facias, or **Recordari facias**, Is a Writ directed to the Sheriff, to remove a Cause depending in an inferior Court, as Court of ancient Demesne, Hundred or County, to the King's Bench or Common Pleas, F. N. B. fol. 71. where, and in what Cases this Writ lies, read Broke, tit. Recordare & Pont. It seems to be called a Recordare, because it commands the Sheriff to whom it is directed to make a record of the Proceedings by himself and others, and then to send up the Cause. See the Table of the Reg. Orig. verbo Recordare. See also Certiorari, and Accedas ad Curiam.

Recorder, **Recordator**, Is he whom the Mayor, or other Magistrate of any City or Town Corporate having Jurisdiction, or a Court of Record within their Precincts, by the King's Grant, doth associate unto him for his better direction in matters of Justice and Proceedings according to Law: And is therefore for the most a man versed and experienced in the Law. What they call a Recorder in other Foreign parts, see in the Grand Customary of Normandy, cap. 107, & 121.

Recordo & processu mittendis, Is a Writ to call a Record together, with the whole proceeding in the Cause out of an inferior Court into the King's Court: which see in the Table of the Reg. Orig. how diversely it is used.

Recordo utlagari mittendo, Is a Judicial Writ, which see in Reg. Judic. fol. 32.

Recovery, **Recuperatio**. May be extracted from the French *Recoverer*, i. *recuperare*, and signifies in a legal Acceptation an obtaining any thing by Judgment or Tryal of Law, as *Evictio* doth among the *Civilians*. And here note, That there is a true recovery, and a feigned one. A true recovery is an actual or real recovery of any thing, or the value thereof by Judgment; as if a man sued for any Land, or other thing moveable or immove-

able, and have a Verdict and Judgment for him. A feigned recovery is (as the *Civilians* call it) *Quadam fittio Juris*, a certain form or course set down by Law, to be observed, for the better assuring of Lands or Tenements unto us; and the end and effect thereof, is (according to *West Symbol.* part 2. tit. Recoveries, sect. 1.) to discontinue and destroy Estates tail, Remainders and Reversions, and to bar the Intails thereof. And in this formality are required three persons, viz. *The Demandant*, *Tenant* and *Vouchee*. *The Demandant*, is he that brings the Writ of Entry, and may be termed *the Recoverer*. *The Tenant*, is he against whom the Writ is brought, and may be termed *the Recoveree*. *The Vouchee*, is he whom the Tenant voucheth, and calls to warranty for the Land in demand. A recovery with double Voucher, is, where the Tenant voucheth one, who voucheth another, or the common Vouchee. And a recovery with treble Vouchers, is, where three are vouched. But to explain this point a little more, A man that is desirous to cut off an Estate tail in Lands or Tenements, to the end, to sell, give, or bequeath it, causeth (by the contrivance of his Council or Attorney) a feigned Writ of Entry, *sur disseisin en le Poit*, to be brought for the Lands of which he intends to cut off the entail, and in a feigned Court or Declaration thereupon made, pretends he was disseised by him, who by a feigned Fine, or Deed of Bargain and Sale, is named and supposed to be the Tenant of the Land. This feigned Tenant, if it be a single recovery, is made to appear and vouch the *Bagbearer of Writs* for the *Custos brevium* in the *Common Pleas* (for there onely can such recoveries be suffered) who makes default. Whereupon the Land is recovered by him that brought the Writ, and a Judgment is by such fiction of Law entred, that the Demandant shall recover, and have a Writ of *Seisin* for the possession of the Lands demanded, and that the Tenant shall recover the value of the Lands against the Lands of the Vouchee. *Bagbearer*, a poor unlanded and illiterate person, which is feigned to be a satisfaction to the Heir in tail, though he is never to have or expect it. This feigned recovery is also called a common recovery, because it is a beaten and common path to that end for which it is appointed, viz. to cut off the Estates above specified. See *New Book of Entries*, verbo *Recovery*. But a true recovery is as well of the value, as of the thing: For example, If a man buy Land of another with warranty, which Land a third person afterwards by Suit of Law recovereth against me; I have my remedy against him that sold it me, to recover in value, that is, to recover so much in Money as the Land is worth, or so much other Land by way of exchange, F. N. B. fol. 134. To recover a warranty, *Old Nat. Brew.* fol. 146. is to prove by Judgment, that such a man was his warrant against all men for such a thing.

Recoupe, From the French *Recouper*, to cut again; also to reply quickly and sharply to a peremptory Demand: we use it to defalke or discount. As if a man hath ten pounds issuing out of certain Lands, and he disseises the Tenant of the Land in an Affise brought by the Disseisee, the Disseisor shall Recoupe the Rent in the Damages.

Reccrant,

Recreant, French Cowardly, Faint-hearted. See *Cravent*.

Rectatus, *Spelman* interprets it *Suspectus*, ad rectum vocatus. *Officium Coronatoris* edit, Anno 3 E. 1. ---- *De thesauro invento debet Coronator inquirere qui fuerint Inventores & similiter quis inde rectatus est, & hoc potest scire eo quod vixerit delicate & tabernam frequentat & diu sic se habuit, pro tali suspicione attachiari debent, &c.* See *Bracton* 123. num. 8.

Recto, Is a Writ of Right, which is of so high a nature, that whereas other Writs in real Actions are only to recover the possession of the Land or Tenements in question, which have been lost by our Ancestor or our selves; this aimeth to recover both the Seisin which some of our Ancestors or we had, and also the property of the thing whereof the Ancestor died not seised, as of Fee; and whereby are pleaded and tryed both their rights together, viz. as well of Possession as Property: So that if a man once lose his Cause upon this Writ, either by Judgment, Affise or Battel, he is without all remedy, and shall be excluded *per exceptionem rei judicate*, *Bracton*, lib. 5. tract. 1. cap. 1. & seq. It is divided into two kinds, 1. *Rectum Patent*, a Writ of right Patent, and *Rectum Clausum*, a Writ of right Close. This the *Civilians* call *Judicium Petitorum*. The Writ of right Patent is so called, because it is sent open, and is in nature the highest Writ of all other, lying always for him that hath Fee-simple in the Land or Tenements sued for, and not for any other. And when it lyeth for him that challengeth Fee-simple, and in what Cases. See *F. N. B.* fol. 1. 6. where he speaks of a special Writ of Right in London, otherwise called a Writ of Right, according to the Custom of London. This Writ also is called *Breve Magnum de recto*, *Reg. Orig.* fol. 9. and *Fleta* lib. 5. cap. 32. sect. 1. A Writ of right Close, is a Writ directed to a Lord of Ancient Demesne, and lyeth for those which hold their Lands and Tenements by Charter in Fee-simple, or in Fee-tail, or for term of Life, or in Dower, if they be ejected out of such Lands, &c. or disseised: In this case a Man, or his Heirs, may sue out this Writ of right Close, directed to the Lord of the Ancient Demesne, commanding him to do him right, &c. in his Court. This is called *Breve parvum de recto*, *Reg. Orig.* fol. 9. and *Britton.* c. 120. in fine, also *F. N. B.* fol. 11. & seq. Yet note, That the Writ of right Patent seemeth farther to be extended in use than the original intention; For a Writ of right of Dower which lies for the Tenant in Dower, and only for term of Life, is Patent, as appears by *F. N. B.* fol. 7. The like may be said in divers other cases, of which see the Table of the Register Original, verbo *Recto*. This Writ is properly tryed in the Lords Court between Kinsmen that Claim by one Title from their Ancestor. But how it may be thence removed, and brought either to the County, or to the Kings Court, see *Fleta*, lib. 6. cap. 3, 4, & 5. *Glanville* seems to make every Writ, whereby a man sues for any thing due unto him, a Writ of right, lib. 10. cap. 1. lib. 11. cap. 1. and lib. 12. cap. 1.

Recto de dote, Is a Writ of right of Dower, which lieth for a Woman that hath received part of her Dower, and purposes to demand the remainder in the same Town, against the Heir, or

his Guardian, if he be a Ward. Of this see more in *Old. Nat. Brev.* fol. 5. and *Fitzherbert*, fol. 7. *Reg. Orig.* fol. 3. and the *New Book of Entries*, verbo *Droit*.

Recto de dote unde nihil habet, Is a Writ of right, which lies in case where the Husband having divers Lands or Tenements, hath assured no Dower to his Wife, and she thereby is driven to sue for her Thirds against the Heir, or his Guardian, *Old Nat. Brev.* fol. 6. *Reg. Orig.* fol. 170.

Recto de rationabili parte, Is a Writ that lies alway between privies of Blood, as Brothers in *Gavelkind*, or Sisters, or other Coparceners; as Nephews or Nieces, and for Land in Fee-simple. For example, If a man lease his Land for term of Life, and afterward dies, leaving Issue two Daughters, and after that the Tenant for term of life dieth also, the one Sister entering upon all the Land, and so deforming the other, the Sister so deformed shall have this writ to recover part, *F. N. B.* fol. 9. *Reg. Orig.* fol. 3.

Recto quando Dominus remisit, Is a Writ of Right, which lies in case where Lands or Tenements that be in the Seigniority of any Lord, are in demand by a Writ of Right; for if the Lord hold no Court, or otherwise at the prayer of the Demandant, or Tenant, shall send to the Court of the King his writ, to put the Cause thither for that time, (saving to him at other times the right of his Seigniority,) then this writ issues out for the other Party, and hath the name from the words contained, being the true occasion thereof: This writ is close, and must be returned before the Justices of the Common Bank, *Old Nat. Brev.* fol. 16. *Reg. Orig.* fol. 4.

Recto de Advocatione Ecclesie, Is a Writ of Right, lying where a man hath right of Advowson, and the Parson of the Church dying, a Stranger presents his Clerk to the Church, and he not having brought his Action of *Quare Impedit*, nor *Darrein Presentment* within six Months, but suffered the Stranger to usurp upon him. And this writ he only may have that claimeth the Advowson to himself, and to his Heirs in Fee. And as it lies for the whole Advowson, so it lies also for the half, third or fourth part, *Old Nat. Brev.* fol. 24. *Reg. Orig.* fol. 29.

Recto de custodia terre & heredis, Was a Writ that lay for him whose Tenant holding of him in Chivalry, died in Nonage, against a Stranger that entred upon the Land, and took the Body of the Heir; but by the Statute of 12 Car. 2. cap. 24. it is become useless as to Lands holden in Capite, or by Knights-service, but not where there is Guardian in *Seage*, or appointed by the last Will and Testament of the Ancestor: The form of it, see in *F. N. B.* fol. 139. and *Reg. Orig.* fol. 161.

Recto sur Disclaymer, Is a Writ that lies where a Lord in the Kings Court of Common Pleas avow upon his Tenant, and the Tenant disclaimeth to hold of him; upon which disclaimeth he shall have this writ, and if the Lord aver and prove, that the Land is holden of him, he shall recover the Land for ever, *Old. Nat. Brev.* fol. 150. which is grounded upon the Statute *Westm.* 2. cap. 2.

Rector, Is both Latine and English, signifying a Governor, and *Rektor Ecclesie parochialis*, Is he that hath the Charge or Cure of a Parish-Church, *Qui tantum jus in Ecclesia Parochiali habet, quantum Prelatus in Ecclesia Collegiata*: It has of late been over-ruled, that *Rektor Ecclesie Parochialis*, is he that hath a Parsonage where there is a Vicaridge endowed; and he that has a Parsonage without a Vicaridge, is called *Persona*, but this distinction seems to be new and subtle. *Bracton* certainly uses it otherwise, lib. 4. tra^{ct}. 5. cap. 1. in these words, *Et sciendum quod rectoribus Ecclesiarum parochialium competit Absa qui instituti sunt per Episcopos & Ordinarios ut Persona*; Where it is plain, that *Rektor* and *Persona* be confounded. Observe also these words there following, *Item dici possunt Rectores Canonici de Ecclesiis Prebendatis. Item dici possunt Rectores vel quasi Abbates, Priores & alii, qui habent Ecclesias ad proprios usus.* See *Vicar*.

Rectorp, *Recloria*, Is taken for an entire Parish-Church, with all its Rights, Glebes, Tythes, and other profits whatsoever. *Spelman*.

Rectus in Curia, Is *verbatim*, right in Court, and signifies one that stands at the Bar, and no man Objects anything against him, *Smith de Repub. Angl. lib. 2. cap. 3.* We take it also, that when a man is Outlawed, he is *extralegem positus*; So when he hath reversed the Outlawry, and can participate of the benefit of the Law, he is *Rectus in Curia*.

Rependum, Is used substantively for the Clause in a Lease, &c. whereby the Rent is reserved to the Lessor, *Co. lib. 2. fol. 72. Cromwells Case*.

Redisseisin, *Redisseisina*, Is a *disseisin* made by him, that once before was found and adjudged to have *disseised* the same man of his Lands or Tenements; for the which there lies a special Writ, called a Writ of *Redisseisin*, *Old. Nat. Brev. fol. 106. F. N. B. fol. 188. New Book of Entries, eodem verbo.* The Punishment for *redisseisin*, see in the Statute 52 H. 3. cap. 8. It is also taken for the Writ lying for a *redisseisin*, *Reg. Orig. 206, 207.*

Redmans or Radmans, *Doomsday in fine Cestre-scire, tit. Lanc. Blackburne Hundred, Rex E. regis Peneverdant, Ibi 11 Car. sunt in Domino & 6. Burgeses & 3. Radmans, & 8. vill. & 4. bovar.* These *Redmans* may be the same with *rad Knights*, who, by the Tenure or Custom of their Lands, were to ride with or for the Lord of the Mannor about his business or affairs.

Redubboys, Be those which buy stolen Cloth, knowing it such, and change it into some other form or colour that it may not be known, *Britton, cap. 29. Crompton's Vicount, fol. 193. and 3. Inst. fol. 134.*

Re-entry, May be deduced from the French *Reentrer*, i. *rufus intrare*, to enter again, and signifies the resuming or retaking that Possession which we had lately foregone. For example, If I make a Lease of Land or Tenement, I do thereby forego the Possession; and if I do condition with the Lessee, That for non-payment of the Rent at the day, it shall be lawful for me to re-enter; this is as much as if I conditioned to take

again the Lands, &c. into mine own Hands, and to recover the Possession by my own Fact, without the assistance of Judge, or other Process.

Reere County. See *Reir County*.

Revertent, Is a second extent made upon Lands or Tenements, upon Complaint made, that the former extent was partially performed, *Bro. tit. Extents, fol. 313.*

Refectory, *Refectorium*, That place in Monasteries where the Monks used to eat. So the Halls in Colleges and Inns of Courts may properly be called *Refectories*, places wherein the Schollars and Students eat and refresh themselves.

Referendary, *Referendarius*, Is the same as the Masters of Request are to the King among us; they were so called by the old Saxons, as appears by the Charter of the Endowment of the Monastery of St. Peter and Paul in Canterbury, dated Anno Dom. 605. where it is thus endorsed,

† *Ego Augemundus Referendarius approbavi.*

† *Ego Graphio Comes benedixi.* † *Ego Tangisilus Regis Optimas confirmavi, &c.* And in another Charter of the same King, *Testibus reverendissimo Patre Augustino Dorobernensis Ecclesie Archiepiscopo Primo, &c. Edbaldo filio meo, Hamigisilo (Duce Landavi) Augemundo Referendario Hocca comite, &c.* See *Spelman hoc verbo*.

Refortuncula, *Walsingham in Ed. 2. Anno Dom. 1317.* saith, *In Refortuncula sua de Wotton latens vicinis simile injuriam inferebat.*

Regal Fishes. Are Whales and Sturgeons, Anno 1 Eliz. cap. 5. some add *Porpusses*. The King, by his Prerogative, shall have every Whale cast on shore in all places within this Realm, unless granted to Subjects by special words. The King himself shall have the Head and Body, and the Queen the Tayle, to make Whale-bones for her Royal Vestments, *Pat. 1 E. 1. m. 25. dorso.* See *Tract. de Auro Regina, pag. 127.*

Regalia, *Dicuntur jura omnia ad fiscum spectantia*, saith *Spelman*. The Royal Rights of a King, the Civilians reckon to be six, 1. Power of Judicature. 2. Power of Life and Death. 3. Power of War and Peace. 4. Masterless Goods, as Wayfes, Estrayes, &c. 5. Assessments. And 6. Minting of Money. See *Royalities*. Also the Crown, Scepter with the Cross, Scepter with the Dove, St. Edwards Staff, four several Swords, the Globe, the Orbe with the Cross, and other such like things used at the Coronation of our Kings, are called *Regalia*. See the relation of the Coronation of King Charles the Second in *Baker's Chron.*

Regalis Justicia, — *Item prefati Barones* (scil. quinq; Portuum) habere debent ut asservant per chartam suam *Regalem Justiciam in villa Gernemuth, tempore festi una cum Ballivo seu Preposito villa predicta, viz. cognitionem Assise panis ulnarum, ponderum, & aliarum mensurarum, & similiter vopde strand & Denne secundum consuetudines suas utatas, &c.* *Rot. Parl. 8 E. 2. num. 262.*

Regardant, As *Villain regardant* was called *Regardant* to the Mannor, because he had the Charge to do all base Services within the same, and to see the same freed of all things that might annoy

annoy it, *Co. on Lit. fol. 120.* This word is only applied to a *Villain* or *Neif*, yet in old Books it was sometimes attributed to *Services*, *ibid.*

Regard, Regardum & Rewardum, Is borrowed of the French *Regarder*, i. *Aspectus, respectus*; and though it hath a general signification of any care or diligent respect, yet it hath also a special acceptation, wherein 'tis only used in matters of the Forest; and there two ways, one for the Office of *Regarder*, the other for the compass of the ground belonging to that Office, *Crompt. Jur. fol. 175. 199.* Touching the former, thus saith *Manwood* in his *Forest Laws*, part 1. pag. 194. & 198. *The Eyre, General Sessions of the Forest, or Justice-Seat is to be kept every third year; and of necessity before any such Sessions or Justice-Seat can be holden, the Regarders of the Forest must make their regard, and this making of the regard must be done by the King's Writ, and the Regarder is to go through the whole Forest, to see and inquire of the Trespasses therein, viz. ad videndum, ad inquirendum, ad imbreviandum & ad certificandum.* Touching the second signification, the compass of the *Regarders* Charge is the whole Forest, that is, all the ground which is parcel of the Forest; for there may be Woods within the limits of the Forest, that be no parcel thereof, and those be without the regard, *Manwood*, part 2. cap. 7. num. 4. *Anno 20 Car. 2. cap. 3.*

Regarder, Regardator, Cometh of the French *Regardeur*, i. *spectator*, and signifies an Officer of the Forest, *Crompt. Jurisd. 153.* where it is thus defined. A *Regarder* is an Officer of the Forest, appointed to supervise all other Officers, and was ordained in the beginning of King *Henry the Second's* dayes. *Manwood* thus describes him, A *Regarder* is an Officer of the King's Forest, that is, sworn to make the regard of the Forest, as the same hath been used to be made heretofore: And also to view and enquire of all Offences or Defaults of the Foresters, and of all other Officers of the King's Forest concerning the execution of their Offices. This Officer may be made either by the King's Letters Patents, or by any one of the King's Justices of the Forest, at his discretion, in the General Eyre, or at such time as the regard is to be made, by virtue of the King's Writ directed to the Sheriff of the County for that purpose. More particulars of the *Regarders* Office, how he is chosen, and the form of his Oath, see in *Manwood*, pag. 188. 192, 195, 207. In a Charter of *Henry the Third*, To the Masters, Canons, Brethren, &c. of the Order of the House of *Samlingham*, made in the Eleventh year of his Reign, 'tis said, *Et sint quieti tam ipsi quam homines eorum de misericordia forestæ & de escapis, & de Rewardo & vasto ubiq; in Marisco de Rethovene, &c.*

Regio Assensu, Is a Writ whereby the King gives his Royal Assent to the Election of a Bishop or Abbot, *Reg. Orig. fol. 294.*

Registery, Registrum, Is properly derived from an old French word *Gister*, i. *in loco reponere, suo loco constituere*. So that *registrum* is properly the same with *repositorium*, a place where any thing is laid up; and from hence Public Books, in which various things are inserted, are properly termed *Registers*; and accordingly the Office, Books and Rolls, wherein the proceedings of the Chancery, or any spiritual Court are recorded:

The Writer and Keeper of which is called *The Register*, in Latine *registrarius*.

Register, Is also the name of a Book, wherein are mentioned most of the forms of the Writs used at Common Law, of which *Spelman* writes thus, *Codex dicitur quo brevia Regia tam originalia quam judicialia formularum muneri inscribuntur; In hoc enim si non extiterit brevis alicujus formula, vel si ab eo variatum fuerit breve illud casum habetur: Nec de novo condi potest breve aliquod hujusmodi non publico Parliamenti decreto, Hujus Codicis meminit, Westm. 2. cap. 25. And Co. on Lit. fol. 159. affirmis, That this Register is one of the most ancient Books of the Common Law.*

Register of the Parish Church, Registrum Ecclesie Parochialis, Is that Book, wherein Baptisms, Marriages, and Burials are in each Parish every year registred; which was laudably instituted by the Lord *Cromwel*, in the month of September, 1538. being the Thirtieth year of *Henry the Eighth*, while he was his Vicar-General.

Regius Professor, *Anno 12. Car. 2. cap. 17.* *Henry the Eighth* founded five Lectures in each University, viz. Of *Divinity, Hebrew, Greek, Law and Physick*; The Readers of which Lectures are called in the University Statutes, *Regii Professores*.

Registrator, Registrarius, May be deduced from the French *Registrar*, and signifies him that buys Wares or Victuals, on purpose to enhance the prices; formerly such as bought by great and sold by retail, came under that notion, 27. E. 3. Stat. 1. cap. 3. But now that Name denotes him that buys and sells any Wares or Victuals in the same Market or Fair, or within five Miles thereof, whereof see the Stat. 5. E. 6. cap. 14. & Eliz. 12. and 13. Eliz. 25. In the Civil Law such is called *Dardanarius*, a *Dardano* quodam hujus sceleris autore, saith *Spelman*. Heretofore both the *Ingrator* and *Registrator* were comprehended under the word *Forestaller*, 3. Inst. 195. and as such shall be punished. See *Forestallers and Ingrators*.

Regulars, Regulars, Are such as profess to live under some certain rule, such as Monks, or *Canon Regulars*, who ought alwayes to be under some rule of Obedience.

Rehabere facias seissum quando Wires comes liberabis seissum de maiore parte quam deberet, Is a Writ Judicial; *Reg. Jur. dic. fol. 13. 51.* There is another Writ of this name and nature, fol. 54.

Rehabilitation, Rehabilitatio, *Anno 25 H. 8. cap. 21.* Is one of those Exactions mentioned in that Statute, to be claimed by the Pope heretofore in England, and seems to signify a Bull or Breve, for reestablishing a spiritual person to exercise his Function, who was formerly disabled, or a restoring to a former ability.

Reis, French *Raye*, i. *radius, linea, tractus*, In English a *Ray* or *ray*, *Prior Lawens*, pag. 21. *Omnis Lanceta, omnis Toftman, & omnis Molman (qui non sedet super Ogeland) debent spargere nam reiam de fienis, &c.* that is, saith *Spelman* in his Glossary, *unum strigam, tractum vel versum hercoris*; Anglice a *reiw* of muck or dunge, *ad stercoyandum terram Domini.*

Rejoynder, Rejunctio, Signifies an Answer

or exception to a Replication; For first the Defendant puts in an Answer to the Plaintiffs Bill, which is sometimes called *An Exception*. The Plaintiffs Answer to that is called a *Replication*, and the Defendants to that a *Rejoinder*, especially in Chancery, *West Symbol.* part 2. tit. Chancery, sect. 56. The Civilians call it *Duplicatio*, of which *Spigellius* hath these words, *Est autem rejunctio seu Duplicatio vel allegatio, quæ datur reo ad infirmendam replicationem actoris & confirmandam exceptionem rei.*

Relippus, *Precium vidua emptæ Matrimonii causa.* A quo fortè (saith *Spelman*) lex nostra antiqua de maritagiis viduarum, sumpsit initium formæ licet diversâ. And it may seem to be derived from the Saxon *slippan vel pypan*, i. *metere, rapere*, colligere, quasi id quod capitur vel colligitur ob maritandam viduam.

Reif, According to *Skene*, *Leg. Alexandri R. C. 2. paragr. 3.* signifies Robbery, and may be derived from the Saxon *Reap*, *rapina*, *Reapian*, *spoliare*, as both from the Latine *rapere*.

Reius per discent, is a form of Pleading, when an Heir is sued for a Debt of his Ancestor, and he hath not *Affets* in his Hand, nor any Lands liable to be extended.

Rekpenis, *Constit. Rob. Dunelm. Episc. Anno 1276. cap. 3.* Porro huic Sanctissimi adjicimus, quod si plures liberi proprium habentes, in parentum pariter familia vivant, ad denarios qui vocantur **Rekpenis** minime arceantur, cum si communiter intrinsecis atuntur a parentibus, sic in extrinsecis ab eisdem lateantur pariter se defendi.

Relation, *Relatio*, idem quod *filio Juris*, To make a nullity of a thing from the beginning (for a certain intent) which had essence, *Co. lib. 3. fol. 28.* *Butler and Baker's Case*: But more plainly thus, *Relation* is, where, in consideration of Law two times, or other things are considered, so as if they were all one, and by this the thing subsequent is said to take his effect by *relation* at the time preceding. As if *A.* deliver a writing to *B.* to be deliver'd to *C.* as the Deed of *A.* when *C.* hath paid a sum of Money. Now when the Money is paid, and the writing delivered, this shall be taken as the Deed of *A.* at the time when it was first delivered. So Bills of Parliament, to which the King assents on the last day of Parliament, shall relate and be of force from the first day of the beginning of the Parliament, and so it is of divers other like things.

Release, *Relaxatio*, Is an Instrument whereby Estates, Rights, Tythes, Entries, Actions, and other things be sometime extinguished, sometime transferred, sometime abridged, and sometime enlarged, *West Symbol.* part 1. lib. 2. sect. 509. and there is a release in *Faith*, and a release in *Law*, *Perkins Grants* 71. A release in *Faith*, is that which the very words expressly declare. A release in *Law*, is that which doth acquit by way of consequence or Intendment of Law; an example whereof you have in *Perkins ubi supra*. How these are available, and how not, see *Littleton at large*, lib. 3. cap. 8. And of the divers sorts of Releases, see the *New Book of Entries*, verb. *Release*.

Relief, *Relevamen*, But in *Doomsday*, *Relevatio*, *relevium*, signifies a certain sum of Money which the Tenant holding by Knights-service,

Grand-sergeanty, or other Tenure, for which Homage or regal Service is due; or by *Socage*, for which no Homage is due, and being at full age at the death of his Ancestor, paid unto his Lord at his Entrance, *Mag. Chart. cap. 2.* and *28 E. 1. stat. 1. Bracton*, lib. 2. cap. 36. affirms, That is called a relief, quia hereditas quæ jacens fuit per antecessoris decessum, relevatur in manus heredum, & propter factam relevationem, faciendâ erit ab herede quædam Prestatio quæ dicitur relevium, and *Britton*, cap. 69. Of this also speaks the *Grand Customary of Normandy*, cap. 34. The Lord of the Fee ought to have relief of the Lands, which are held of him by Homage, when those die of whom he had Homage. *Hottoman* in his Commentaries, De verbis Feudalibus, verb. *Relevium*, defines it thus, *Relevium*, est honorarium, quod novus vassallus Patrono introitus causa largitur, quasi morte vassalli alterius vel alio quo casu feudum ceciderit, quod jam à novo sublevetur. What a legal and just relief was in the time of *Hen. 2.* appears partly from *Glanville*, lib. 9. cap. 4. Dicitur autem rationabile relevium alicujus juxta consuetudinem Regni, de feodi unius militis centum solidi, de Socagio vero quantum valet census illius socagii per unum annum; De Baronis vero nihil certum statutum est, quia juxta voluntatem & misericordiam Domini Regis solent Baronie capitales de Releviis suis Domino Regi satisfacere. But it was more certainly set out afterwards by *Magna Charta* in these words, Si quis Comitum vel Baronum nostrorum, sive aliorum tenentium, de nobis in Capite per servitium militare mortuus fuerit & cum decesserit heres ejus plena ætatis fuerit & Relevium nobis debeat, Habeat hereditatem suam per antiquum relevium, scil. Heres vel heredes Comitum de integro Comitatu per centum libras; heres vel heredes Baronis de Baronia integra, per centum marcas, heres vel heredes militis de feodo militis integro, per centum solidos ad plus; & qui minus habuerit, minus dei, secundum antiquam consuetudinem feodorum. See *Old Nat. Brev.* fol. 94. *Kitchin*, fol. 145. cap. *Relief*, and *Glanville*, lib. 7. cap. 9. See *Heriot. Skene de verbor. Signif. verb. Relevium*, saith, *Relief* is a French word, from the Latine *relevare*, which is to relieve, or take up that which is fallen; for it is given by the Tenant or Vassal that is of perfect age, after the expiring of the Wardship to his Superior Lord, of whom he held his Lands by Knight-service, that is, by Ward and Relief; For by payment thereof he relieves, and, as it were, raiseth up again his Lands after they were fallen down into his Superiors hands, by reason of Wardship, &c. See him at large. See *12 Car. 2. cap. 24.*

Relegation, *Relegatio*, A banishing, or sending away; as *Abjuration* is a forswearing of the Realm for ever, so *Relegation* is taken for a Banishment for a time onely, *Co. on Lit. fol. 133.*

Religious men, *Religiosi*, Are such as enter into a Monastery or Convent, thereto live devoutly. In ancient Deeds of Sale of Land, we often find the Vendee restrain'd from giving or alienating it *Viris religiosis vel Judæis*, to the end the Land might not fall into *Mortmaine*. See *Judaisme. Rex Vice-com. &c. Præcipimus tibi quod clamari facias sine dilatione per comitatum tuum quod nulli sicut diligent corpora & catalla sua, malum faciant vel dicant viris religiosis & clericis contra pacem nostram: Et si quem inde attingere possimus, ad proximum*

proximam quercum eum suspendi faciemus T. meipso apud Marlebergh xi. Apr. Claus. 9. Joh. m. 3.

Religious Houses, Religiosa Domus, Are Houses set apart for Pious Uses, such as are Monasteries, Churches, Hospitals, and all other places where Charity is extended to the relief of the Poor and Orphans, or for the use or exercise of Religion.

Reliques, Reliquie, Are some remainders of Saints that are dead, preserved by some living with great veneration, as sacred Memorials of them; forbidden to be used or brought into England by several of our later Statutes.

Remainder, Remanentia, Is an Estate limited in Lands, Tenements or Rents, to be enjoyed after the expiration of another particular Estate: For example, A man may let to one for term of his Life; and the remainder to another for term of his Life, *Littl. cap. Attainment. fol. 133.* And this remainder may be either for a certain term, or in Fee-simple, or Fee-tail, as appears by *Broke, tit. Donee & remainder, fol. 245.* and *Glanville, lib. 7. cap. 1.* where, towards the end, he hath these words, *Notandum quod nec ejus corpus nec Abbas, quia eorum Baronie sunt de Eleemosyna Domini Regis & Antecessorum ejus, non possunt de Dominicis suis aliquam partem dare ad remanentiam sine assensu & confirmatione Domini Regis;* where it appears, That *Dare ad remanentiam* is to give away for ever, and again, *cap. 9.* In like sort doth *Bracton* use it, *lib. 2. cap. 23.* and *lib. 4. tract. 2. cap. 4. num. 4.* and the *New Book of Entries, verb. Remainder.* The difference between a Remainder and Reversion, according to *Selman,* is this; that by a Reversion, after the appointed term, the Estate returns to the Donor, or his Heirs, as the proper Fountain; whereas by Remainder it goes to some third, or a stranger.

Remembrancer of the Exchequer, Rememorator Scaccarii, Are three Officers or Clerks there, one called *The King's Remembrancer,* 35 *Elizabeth. cap. 5.* The second, *The Lord Treasurer's Remembrancer,* upon whose Charge it lies, to put the Lord Treasurer and the rest of the Judges of that Court in remembrance of such things as are to be called on, and dealt in, for the King's behoof. The third is called *The Remembrancer of the First-Fruits,* 5 *R. 2. stat. 1. cap. 14, 15.* These in 37 *E. 3. cap. 4.* be called Clerks of the Remembrance. *The King's Remembrancer* enters in his Office all Recognizances taken before the Barons for any the King's Debts, for Appearances, or for observing of Orders: He takes all Bonds for the King's Debts, or for Appearance, or for observing Orders, and maketh out Process for the breach of them. He writes Process against the Collectors of Customs, Subsidies, and Fifteenths, for their Accounts: All Informations upon penal Statutes are entered in his Office, and there all matters upon English Bills in the Exchequer-Chamber remain: He makes the Bills of Compositions upon penal Laws, takes the stalment of Debts, has delivered into his Office all manner of Indentures, Fines, and other Evidences whatsoever, that concern the assuring of any Lands to the Crown: He every year in *Craftino animarum* reads in open Court the Statute for election of Sheriffs, and gives them their Oath; and he reads in open Court the Oath of all the Officers of the same

when they are admitted, besides many other things. *The Lord Treasurer's Remembrancer* makes Process against all Sheriffs, Escheators, Receivers and Bailiffs, for their Account. He makes Process of *Fieri facias* and *Extent* for any Debts due to the King either in the Pipe, or with the Auditors, makes Process for all such Revenue as is due to the King, by reason of his Tenures: He makes Record, whereby it appears, whether Sheriffs or other Accountants pay their Profers due at *Easter* and *Michaelmas.* He makes another Record, whether Sheriffs and other Accountants keep their dayes of Prefixion. All *Estreates* of Fines, Issues and Amerciaments, set in any Courts at *Westminster,* or at the *Affises* or *Sessions,* are certified into his Office, and are by him delivered to the Clerk of the *Estreates,* to write Process upon them, &c. See the *Repertory of Records, fol. 121.* The *Remembrancer* of the first Fruits takes all Compositions and Bonds for first Fruits and Tenths, and makes Process against such as do not pay the same.

Remitter, Remittere, To restore; in a legal sense intends a Restitution of one that hath two Titles to Lands or Tenements, and is seised of them by his later Title, which proving defective, he is restored to the former and more ancient Title, *F.N.B. fol. 149.* *Dyer, fol. 68. num. 22.* In what case this may be granted, see *Bro. tit. Remitter,* and in *Doctor and Student, cap. 9. fol. 19.* 'tis said, That if Land descend to him that hath right to that Land before, he shall be remitted to his better Title if he will. See *Termes de la Ley* on this word, and the *New Book of Entries, and Co. on Lit. lib. 3. cap. 12.*

Renant, Anno 32 H. 8. cap. 2. But it may be supposed a mistake for *Reniant, i. Negans,* a Participle of the French Verb *Rénier, negare.*

Render, Cometh of the French *Rendre, i. reddere, retribuere,* and signifies with us the same thing: For example, This word is used in levying of a *Fine,* which is either *single,* whereby nothing is granted or *rendred* back again by the Cognisee to the Cognisor; or *double,* which containeth a Grant or *Render* back again of some Rent, Common, or other thing, out of the Land it self to the Cognisor, &c. *West Symbol. part. 2. tit. Fines, sect. 21. & 30.* Also there be some things in a Mannor that lye in *Prender,* that is, which may be taken by the Lord or his Officer, when they chance, without any offer made by the Tenant, as *Escheats,* and the like; and some that lye in *Render,* that is, must be delivered or answered by the Tenants, as *Rents, Reliefs, Heriots,* and other Services, *ibid. sect. 126.* Also some Service consists in *Seisance,* some in *Render,* *Perkin's Reservations 696.*

Renegeld, Per Renegeld *Johannes Stanley Arm. Clamat habere de qualibet bovata terre infra feodum de Aldford 1 d. exceptis Dominicis terris, & terris in feodo pradicto infra Hundred de Macclesfield, Rot. Plac. in Itin. apud Cestr. 14 H. 7.*

Renobant, From Renovo, To renew: The Parson sued one for Tythes, to be paid of things *renovant,* but this Horse being only for labor and travel would not *renew,* &c. *Gro. 2. part. fol. 430.*

Rent, Reditus, Signifies with us a sum of Money,

Money, or other consideration issuing yearly out of Lands or Tenements, *Plowden*, fol. 132. 138, 141. *Browning's Case*; of which there are three sorts, viz. *Rent-service*, *Rent-charge*, and *Rent-sock*. *Rent-service* is, where a man holds his Lands of his Lord by Fealty and certain Rent or by Fealty, Service, and certain Rent, *Lit. lib. 2. cap. 12.* or that which a man making a Lease to another for term of years, reserveth yearly to be paid him for them. In the *Terms of the Law*, this reason is given for it, because it is at his pleasure either to Distrain, or bring an Action of Debt, *Rent-charge* is, where a man makes over his Estate to another, by Deed indented, either in Fee, or Fee-tail, or for term of Life, yet reserves to himself, by the same Indenture, a sum of Money yearly to be paid to him, with clause of Distress for non-payment. See *Littleton ubi supra*. *Rent-sock*, otherwise a dry Rent, is that which a man making over his Estate by Deed indented, reserveth yearly to be paid him without Clause of Distress mentioned in the Indenture, *Lit. ibid.* See the difference between a Rent and an Annuity in *Doct. and Student*, pag. 30. Dial. primo.

Rents resolute, *Reditus resoluti*, Are accounted among the Fee-farm rents, to be sold by the Statutes of 22 Car. 2. cap. 6. And are such Rents or Tenths as were anciently payable to the Crown, from the Lands of Abbies and Religious Houses; and after their dissolution, notwithstanding the Lands were demised to others, yet the rents were still reserved, and made payable again to the Crown.

Renecz, A *Renegado*, Is derived from the French *Renier*, *renegare*, and is a Title given to such who Apostatise from Christianity to Mahometanism. *Hoveden* in Rich. 1. sub Anno 1192. *Cepit* (saith he) *in equitatione illa 24. Paganos & unum Renecz qui quondam Christianus fuerat & Dominum nostrum Jesum Christum negaverat; & Rez posuit eum ad sagittandum & sagittatus est.*

Renusciato, *Et sunt Communes Latrones & Renusciatores hominum*, &c. Trin. 28 E. 3. Ebor. 37. q.

Reparatione facienda, Is a Writ which lies in divers Cases, whereof one is, where Three be Tenants in Common, or Joynt-tenants, or pro indiviso of a Mill or House which is fallen into decay, and the one being willing to repair it, the other Two will not: In this Case the party willing shall have this Writ against the other Two, *F. N. B. fol. 127.* Of the various uses of it, read *Reg. Orig. fol. 153.*

Repeale, Cometh from the French *Rappell*, *revocatio*, and hath the same signification among us; as the repeal of a Statute is the revoking it, *Rastall*, tit. *Repeal*. Broke useth *repellance* in the same sense.

Repleader, (*Replacitare*) Is to plead again that which was once pleaded before, *Rastall* tit. *Repleader*, and *New Book of Entries*, *Eodem* tit.

Replegiare, Is properly to redeem a thing detained or taken by another, by putting in legal Sureties. See *Replevin* and *Second Delivrance*.

Replegiare de averiis, Is a Writ brought by one whose Cattel are distrained, or put in the Pound, upon any cause by another, upon

Surety given to the Sheriff to Prosecute or Answer the Action in Law, *Anno 7 H. 8. cap. 4. F. N. B. fol. 68.* See the *Register Orig.* divers sorts of this Writ in the Table, and also in the *Register Judicial*, fol. 58. 70. The *New Book of Entries*, verb. *Replevin*, and *Dyer*, fol. 173. num. 14.

Replevin, *Plevina*, Is a derivation of *replegiare*, to deliver to the Owner upon Pledges, and is the bringing of the Writ called *Replegiare facias* by him that has his Cattel, or other Goods distrained, by another, for any cause, and putting in Surety to the Sheriff, that upon delivery of the thing distrained, he will prosecute the Action against the Distrainer, *Co. on Lit. lib. 2. cap. 12. sect. 219.* Goods may be replevied two manner of ways, viz. by Writ, and that is by the Common Law, or by Plaint, and that is by Statute Law, for the more speedy having again of their Cattel and Goods. *Replevie* is also used for the Bayling of a man, *Stamf. pl. cor. fol. 72. 74. and Westm. 1. cap. 11. & 15.* *Replegiare est reponere bona mobilia dato apud Praefectum Vade five fide-jussore; sane & Anglii breviter per quod bona ea reponerent, to Replevin, &c. Vossius de Kistis sermonibus*, lib. 2. cap. 25. See *Skenet* *cod. verbo*.

Replevish, *Replegiare*, Is to let one to Mainprise upon Surety, *Anno 3. E. 1. cap. 11.*

Replication, *Replicatio*, Is an Exception of the second degree, made by the Plaintiff upon the first Answer of the Defendant, *West Symbol. part 2. tit. Chancery*, sect. 55. and *Westm. 2. cap. 36.* It is also that which the Plaintiff replies to the Defendants Answer in Chancery; and this is either General or Special. Special, is grounded upon matter arising out of the Defendants Answer, &c. General, is so called from the general words therein used.

Report, *Reportus*, Is a publick relation of Cases Judicially argued, debated, resolved, or adjudged in any of the King's Courts of Justice, with the Causes and Reasons of the same delivered by the Judges, *Coke on Lit. fol. 293.* Also when the Chancery, or other Court, refer the stating of some Case, or comparing an Account, &c. to a Master of Chancery, or other Referree, his Certificate therein is called a Report.

Repositio of the Forest, *Repositio Forestae*, Was an Act whereby certain Forest Grounds being made Purlieu upon view, were by a second view laid to the Forest again, *Manswood*, part 1. pag. 178.

Reprisalls, *Reprisalia*, May be deduced from the French *Reprise*, i. *resumptio*, and are all one both in the Common and Civil Law, *Reprisalia est potestas pignorandi contra quemlibet de terra debitoris data creditoribus pro injuriis & damnis acceptis*, *Vocabular, utriusq; juris*. This among the ancient Romans was called *Clarigatio*, of the Verb *Clarigo*, i. *res clare repetere*. It is named in the Stat. 27 E. 3. Stat. 2. cap. 17. *Law of Marque*; because one for defect of Justice in another Territory, redresseth himself by the Goods belonging to Men of that Territory, taken within his own Bounds.

Reprises, Is commonly taken for Deductions and Duties which are yearly paid out of a Mannor and Lands, as *Rent-charge*, *Rent-sock*, *Pensions*, *Corrodies*, *Annuities*, *Fees of Stewards or Bayliffs*, &c. Wherefore when we speak of the clear yearly value of a Mannor, we say it is so much

much per annum ultra reprimas, besides all reprises.

Reprive, May be derived from the French *Repris*, that is, taken back: So that to reprive, is properly to take back, or suspend, a Prisoner from the Execution and Proceeding of the Law for that time.

Requests, *Curia requisitionum*, see in Court. It is utterly taken away by Act of Parliament; But you may read of it in *Gwin's Preface to his Readings*, and else-where.

Resceit, *Receptio*, Is an admission, or receiving a third person to plead his right in a Cause formerly commenced between other Two, *New Book of Entries*, verb. *Resceite*, as if Tenant for Life or Years brings an Action, he in the Reversion comes in, and prays to be received to defend the Land, and to plead with the Demandant. See *Brit. tit. Resceit*, fol. 205. and *Perkin's Dower*, 448. The Civilians call this Admissionem tertii pro suo interesse. *Resceit* is also applied to an admittance of Plea, though the Controversie be only between Two. See *Broke*, tit. *Esloppell*, and *Co. on Lit.* fol. 192.

Resceit of Homage, *Receptio Homagii*, Is the Lords receiving Homage of his Tenant at his admission to the Land, *Kitchin*, fol. 148. See *Homage*.

Rescous, *Rescussus*, Comes from the French *Rescouffe*, i. *Liberatio*, is a resistance against lawful Authority; as if a Bailiff, or other Officer, upon a Writ do arrest a Man, and others by Violence take him away, or procure his Escape; this is a *Rescouffe in Fact*. So if one distrain Beasts for Damage-feasant in his Ground, and as he drives them in the High-way towards the Pound, they enter into the Owner's House, and he with-holds them there, and will not deliver them upon demand; this detainer is a *Rescous in Law*, *Co. on Lit. lib. 2. cap. 12.* *Cassaneus* in his *Book De Consuetud. Burg.* fol. 294. hath the same word coupled with *resistentia*: It is also used for a Writ which lies for this Fact called *Breve de Rescussa*, whereof you may see both the form and use in *F. N. B. fol. 101. Reg. of Writs*, fol. 125. and *New Book of Entries*, verb. *Rescous*. This in matters relating to Treason, is Treason; and in matters concerning Felony, is Felony, *Crompt. Just.* fol. 54.

Rescussor, Is he that commits such a *Rescous*, *Cro. Rep. 2. par. fol. 419.*

Reseiser, *Refeisre*, Is a taking again of Lands into the hands of the King, whereof a general Livery, or *Ouster le maine*, was formerly misfued, contrary to the form and order of Law, *Stamf. Prærog.* 26. See *Resumption*.

Reservation, *Reservatio*, A keeping or providing, as when a man lets his Land, he reserves a Rent to be paid to himself for his Maintenance. Sometimes it signifies as much as an Exception; as when a man lets a House, and reserves to himself one Room, that Room is excepted out of the Demise. See *Perkin's Reservations per totum*, and *Termes de la Ley eodem verbo*.

Reset, *Skene* hath that in, and **Resetter** in another place; in both which he expounds it to signify the receiving or receiver of a Proscribed or Outlawed Person, and may be derived from our English word *Receit*.

Resiance, *Resiantia*, Seemeth to come from the French *Resceant* or *Resceant*, *Resident*, and sig-

nifies a mans abode or continuance in a place, *Old Nat. Brev. fol. 85.* Whence also comes the Participle *resiant*, that is, continually dwelling or abiding in a place, *Kitchin*, fol. 33. It is all one in Deed with residence, but that custom ties this only to persons Ecclesiastical. *Veteri autem jure nostro* (saith *Spelman*) etiam & *Scotico aliud significat*, utpote morbum validum seu veteranum, quo quis exire de suis adibus prohibetur: *Effonium* igitur quod de malo lecti nuncupatur, hoc est excusatio quod ratione infirmitatis sistere se in foro non valeat, *effonium* nuncupant de *resceantia*, *Glanville*, lib. 1. cap. 11. Quandoq; intervenit (*effonium*) ex infirmitate de *resceantia*. *Ubi in margine notatur*, *effonium* de *resceantia* idem valet quod *effonium* de malo lecti. And all these seem to be drawn from the French, who say, *Ecoine de mal resceant*. See *Skene* de verb. *Signif. verb. Resceantia*.

Residence, *Residentia*, Is derived from the Latine word *residere*, and is peculiarly used both in the Common and Canon Law, for the continuance or abode of a Parson or Vicar upon his Benefice. The default whereof (except the Party be qualified and dispensed with) is the loss of ten pounds every month, *Anno 28 H. 8. cap. 13.*

Resignation, *Resignatio*, Is used particularly for the giving up of a Benefice into the hands of the Ordinary, otherwise by the Canonists termed *Renunciatio*. And though it signifie all one in nature with the word *Surrender*, yet it is by custome restrained to the yielding up a Spiritual Living, and *Surrender* to the giving up of Temporal Lands into the hands of the Lord. And a resignation may now be made into the hands of the King, as well as of the Diocesan, because he hath *Supremam Autoritatem Ecclesiasticam*, as the Pope had here in times past, *Plowden*, fol. 498. *Grendon's Case*.

Resort or **Resort**, Is a word properly used in a Writ of *Tayle* or *Conseuage*, as descent is in a Writ of right. In French it signifies the Authority or Jurisdiction of a Court; *Salvo tamen tam resorto quam aliis jure nostro & etiam jure alieno*, *Lit. Pat. Phillippi le Hardy Reg. Franciæ*, mentioned by *Spelman* in his *Glossary*.

Respectu computi Vicecomitis habendo, Is a Writ for the respiting of a Sheriffs Account, upon just occasion directed to the Treasurer and Barons of the Exchequer, *Register*, fol. 139. & 179.

Respite, *Respectus*, Is used for delay, forbearance or continuance of time, *Glanville*, lib. 12. cap. 9. in *breve Regis. Præcipio tibi quod poni facias in respectum, usq; ad aliquem terminum competentem*.

Respite of Homage, *Respectus Homagii*, Is the forbearing of Homage which ought first of all to be performed by the Tenant that holdeth by Homage; and it had the most frequent use in such as held by Knights-service in *Capite*, who did pay into the Exchequer every fifth Term some small sum of Money, to be respited the doing of their Homage. See the Stat. 12 Car. 2. cap. 24. whereby this is taken away as a charge incident or arising from Knight-service, &c.

Respondere superior, Where the Sheriffs are removeable for insufficiency, (as in London) *respondere Superior*, that is, the Mayor and

Commonalty of London *Par insufficiency del Bayliff d'un liberty, respondeat Dominus libertatis*, 44 E. 3. 13. 4. *Inst.* fol. 114.

Respondalis, *Qui responsum deferit*; He who gives an Answer, is he that appears for another in Court at a day assigned, concerning whom hear *Glanville*, lib. 12. cap. 1. — *Placita in superioribus exposita* — *Prosequi quis potest sicut & alia quælibet placita civilia, tam per seipsum quam responsalem suo loco positum*, &c. But *Fleta* makes a difference between *attornatum*, *esoniatorem* & *respondalem*, lib. 6. cap. 11. *sect. Officium*. As if *esoniator* came only to declare the Cause of the Parties absence, whether Demandant or Tenant; And *Respondalis* came for the Tenant, not only to excuse his absence, but also signifie what Tryal he meant to undergo, viz. the Combat or the Country. A man in ancient time could not appoint an Attorney for him, without warrant from the Court, *Fleta*, lib. 6. cap. 13. See *Attorney*. This word is used in the Canon Law, *Et significat Procuratorem vel eum qui absentem excusat*.

Responsions, *Responsiones*, Seems to be a word chiefly used by the *Knights of St. John of Jerusalem*, for certain Accounts made to them by such as held their Lands or Stocks, *Anno 32 H. 8. cap. 24*.

Restitution, *Restitutio*, Is the yielding up again, or restoring of any thing unlawfully taken from another. But it is most frequently used in the Common Law for the setting him in possession of Lands or Tenements that hath been unlawfully disseised of them; which when it is to be done, and when not. See *Crompton's Justice of Peace*, fol. 144. *vsq;* ad 149.

Restitutio extradi ab Ecclesia, Is a Writ to restore a Man to the Church, which he had recovered for his Sanctuary, being suspected of Felony, *Reg. Orig.* fol. 69.

Restitutio temporalium, Is a Writ that lies, where a man being elected and confirmed *Bishop* of any Diocese, and hath the King's Royal assent thereto for the recovery of the Temporalties, or Barony of the said Bishoprick: And it is directed from the King to the *Escheator* of the County, the form whereof may be read in *Reg. Orig.* fol. 294. and *F. N. B.* fol. 169.

Resummons, *Resummonitio*, Is a Decompound of *Re*, *sub* and *monéo*, and signifies a second Summons, and calling of a man to Answer an Action, where the first Summons is defeated upon any occasion, as the death of the Party, or such like. See *Bro. tit. Resummons*, fol. 214. Of these there are four sorts, according to four divers Cases in the Table of the *Register Judicial*, fol. 1. and *New Book of Entries*, verb. *Reattachment and Resummons*.

Resumption, *Resumptio*, Is a word used in the Statute of 31 H. 6. ca. 7. particularly to signifie the taking again into the King's hands such Lands or Tenements as before, upon false suggestion, or other Error, he had delivered to the Heir, or granted by Letters Patents to any Man, *Bro. tit. Repellance & Resumption*, fol. 298. and 19 H. 7. ca. 10. See *Refeiser*.

Retayle, That is, to buy by great, and sell by parcels, *Anno 3 & 4 E. 6. cap. 21. Qui rem*

integram ementes per miniores eam partes distrabunt.

Retainer, From the Latine *retinere*, signifies in a legal sense a Servant, but not Mænal or Familiar, that is, not continually dwelling in the House of his Master, but only wearing his Livery, and attending sometimes upon special Occasions. This Livery was wont to consist of Hats, (or Hoods) Badges, or other Suits of one Garment by the year; and were many times given by Lords and Great Men, upon design of Maintenance and Quarrels, and therefore justly forbidden by several Statutes, as 1 R. 2. ca. 7. upon pain of Imprisonment, and grievous forfeiture to the King; and again, 16 R. 2. ca. 4. 20 R. 2. ca. 1. and 1 H. 4. ca. 7. by which the Offenders should make ransome at the King's will; and any Knight or Esquire thereby duly attainted, should lose his said Livery, and forfeit his Fee for ever, &c. Which Statute is further confirmed and explained by 2 H. 4. ca. 21. 7 H. 4. ca. 3. and 8 H. 6. ca. 4. And yet this Offence was so deeply rooted, that *Edward the Fourth* was necessitated to confirm the former Statutes, and further to extend their meanings, as appears by 8 E. 4. ca. 2. adding a special Penalty of five pounds upon every man that gives such Livery, and as much on every one so retained either by Writing, Oath or Promise, for every month. These are by the *Feudists* call'd *Affidati*, sic enim dicuntur qui in alicujus fidem & tutelam recepti sunt. And as our Retainers are here forbidden, so are those Affidats in other Countries. But most of the above-mentioned Statutes are repealed by 3 Car. 1. ca. 4.

Retaining Fee, *Merces retinens*, Is the first Fee given to any Serjeant or Counsellor at Law, whereby to make him sure that he shall not be on the contrary part, it is *Honorarium seu præmium causidici præcedentem*, quo clienti suo obligatur ne adversarii causam agat.

Retrazit, Is so called, because that word is the effectual word in the Entry, and is where the Plaintiff or Demandant comes in person into the Court, and says, *He will proceed no further*. And this is a bar of all other Actions of like or inferior nature, *Qui semel actionem renunciavit amplius repetere non potest*, *Co. on Lit. lib. 2. ca. 11. sect. 288*. The difference between a *Non suit* and a *Retrazit*, is, that a *Retrazit* is ever when the Demandant or Plaintiff is present in Court; but a *Non suit* is upon a demand made, when he should appear, and he makes default. *Retrazit* (as we said) is a bar, so is not *Non suit*, for he may commence an Action of like nature again.

Return, *Retorna vel retorna*, Cometh of the French *Retour*, i. *reversio*, *recursus*, and in our Law hath two particular Applications; the one is, the return of Writs by Sheriffs and Bailiffs, which is only a Certificate made to the Court of that which he hath done, touching the execution of their Writ directed to him. And this among the *Civilians* is termed *Certificatorium*; of returns in this signification speaks the Statute of *Westm. 2. ca. 39*. So is the return of a Commission a Certificate or Answer to the Court of that which is done by the Commissioners, Sheriff, Bayliff, or other, to whom such Writs, Commissions, Precepts or Mandats are directed. Also certain days in every Term are called *return days*, or days in Bank; and

and so *Hilary Term* hath four *Returns*, viz. *Ostabis Hillarii*, *Quindena Hillarii*, *Craftino Purificationis* & *Ostabis Purificationis*. *Easter Term* five, viz. *Quindena Pasche*, *Tres Pasche*, *Mense Pasche*, *Quinq; Pasche*, and *Craftino ascensionis Domini*. *Trinity Term* four, i. *Craftino Trinitatis*, *Ostabis Trinitatis*, *Quindena Trinitatis*, *Tres Trinitatis*, and *Michaelmas Term* six, to wit, *Tres Michaelis*, *mense Michaelis*, *Craftino animarum*, *Craftino Martini*, *Ostabis Martini*, *Quindena Martini*. See the Statutes of dayes in Bank, 51 H. 3. 32 H. 8. cap. 21. and 17 Car. 1. cap. 6. The other application of this word is in case of *Replevin*; for if a man distrain Cattel for Rent, &c. and afterwards justifie or avow his Act, so as it is found lawful, the Cattel before delivered unto him that was distrained, upon security given to follow the Action, shall now be returned to him that distrained them, *Bro. tit. Returns d' avers & homes*, fol. 218. and *F. N. B.* in his Table verb. Return.

Retorno habendo, Is a Writ that lies for him that has avowed a Distress made of Cattel, and proved his Distress to be lawfully taken, for returning to him the Cattel distrained, which before were replevied by the Party distrained, upon Surety given to prosecute the Action; or when the Plaintiff or Action is removed by *Recordari*, or *Accedat ad Curiam* into the Court of *Common-Pleas*, and he whose Cattel were distrained makes default, and doth not prosecute his Suit.

Returum averiozum, Is a Writ Judicial, granted to one impleaded for the taking the Cattel of another, and unjust detaining them *contra vadium & Plegios*, and appearing upon Summons, is dismissed without day, because the Plaintiff makes default; and it lies for the return of the Cattel to the Defendant, whereby he was summoned, or which were taken for security of his Appearance upon the Summons, *Register Judicial*, fol. 4. a.

Returum treplegiabile, Is a Writ Judicial, sent out of the *Common-Pleas* to the Sheriff, for the final restitution or return of Cattel to the Owner, unjustly taken by another, as *Damage-feisant*, and so found by the Jury before Justices of Assize in the County, or otherwise by default of Prosecution, *Reg. Judic.* fol. 27.

Reve alias Gerebe, From the Saxon word *Grefa*, *præfatus*, *Lamb's Explication of Saxon words*, verb. *Præfatus*, signifies with us the Bayliff of a Franchise or Mannor, especially in the Western parts of England: Hence *Shire-reve* for Sheriff. See *Kitchin*, fol. 43. See *Greve* and *Sheriff*, and *Vestegan*, cap. 10. See also *Church-reve*.

Revells, Signifie with us Sports of Dancing, Masking, &c. used in Princes Courts, the Inns of Court, or other Noblemens Houses, which are commonly performed by Night; and there is an Officer to order and supervise them, who is intituled *Master of the Revells*.

Reveland. See *Tein-land*.

Revenue, Is a French word, signifying as *Reditus*, and denotes properly the yearly Rent that accrues to every man from his Lands and Possessions.

Reversion, *Reverso*, A returning again; It is *Nomen Verbale*, and derived of the Verb *Revertor*, & apte dici non potest *reversio* antequam rever-

tatur in factu; And therefore *Co. on Lit. fol. 142.* says, *Reverso terra est tanquam terra revertens in possessione Donatori sive hæredibus suis post donum finitum*. It hath a double acception in Law, the one is, *Jus revertendi cum status possessionis defecerit*, and this is but an interest in the Land when the Possession shall fall. 2. When the Possession and Estate which was parted with for a time, ceaseth, and is determined in the persons of the Alienees, Assignees, Grantees, or their Heirs, or effectually returns to the Donor, his Heirs or Assigns, whence it was derived. The difference between a *Reversion* and a *Remainder*, is, that a *Remainder* is general, and may be to any man, but he that granteth or conveyeth the Land, &c. for term of Life only, or otherwise. A *Reversion* is to himself, from whom the Conveyance of the Land, &c. proceeded, and is commonly perpetual, as to his Heirs also, *Lit. lib. 2. cap. 12.* See *Co. lib. 2. fol. 51.* *Sir Hugh Cholmley's Case*; and yet a *Reversion* is sometimes confounded with a *Remainder*, *Co. lib. 2. fol. 67.* *Tooker's Case*, *Plowden*, fol. 170. *Hill's Case*. What this word *Reversion* in a Deed does carry, see *Littleton*, lib. 2. cap. 12.

Review, A Bill of Review in Chancery is, where a Cause hath been heard, and the Decree signed and enrolled; and some Error in Law appears upon the Decree, or new matter discovered in time after the Decree made, which Bill cannot be exhibited, but by licence of the Court. See *Collection of the Chancery Orders*, pag. 69.

Reviving, Is a word metaphorically applied to Rents and Actions, and signifies a renewing of them after they be extinguished. Of which see divers examples in *Broke*, tit. *Revivings of Rents, Actions, &c.* fol. 223.

Bill of Reviver, Is, where a Bill hath been exhibited in Chancery against one, who Answers, and before the Cause is heard, or if heard, before the Decree enrolled, either Party dies; In this Case a Bill of Revivor must be brought, that the former proceedings may stand revived, and the Cause be finally determined.

Revocation, *Revocatio*, Is the calling back of a thing granted, of which you have divers in *Reg. Orig.* as *Revocationem brevis de audiendo & terminando*, fol. 124. *Revocationem præsentationis*, fol. 304, 305. *Revocationem Protectionis*, fol. 23. *Revocationem specialium Justiciariorum quia*, &c. fol. 205.

Reward. See *Regard*.

Rewey, Anno 43 Eliz. cap. 10. So as some Clothes being put in water are found to shrink, Rewey equally cockling, light and notable faulty, &c. it is as much as unevenly wrought, and full of Rewes.

Rhandir, Is a part in the division of the Country in Wales before the Conquest, as first a Cantref consisted of a hundred Towns, under which were so many Commots, each Commot had twelve Mannors or Circuits, and two Townships; there were four Townships to every Mannor, every Township comprehended four Gavel, every Gavel had four Rhandirs, and four Tenements were constituted under every Rhandir. This word Rhandir admits not of any proper significancy in English, but is by Doctor Davis render'd *Pars aut fors hæreditaria*, from the verb, *Rhannu*, Partire, distribuere. Taylor's Hist. of Gavelkind, pag. 69.

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Revenue, Is a French word, signifying as *Reditus*, and denotes properly the yearly Rent that accreus to every man from his Lands and Possessions.

Reversion, *Reversio*, A returning again; It is *Nomen Verbale*, and derived of the Verb *Revertor*, & apte dici non potest *reversio antequam rever-*

tatur in factu; And therefore *Co. on Lit. fol. 142.* says, *Reversio terre est tanquam terra revertens in possessione Donatori five heredibus suis post donum finitum*. It hath a double acception in Law, the one is, *fus revertendi cum status possessionis defecerit*, and this is but an interest in the Land when the Possession shall fall. 2. When the Possession and Estate which was parted with for a time, ceaseth, and is determined in the persons of the Alienees, Assignees, Grantees, or their Heirs, or effectually returns to the Donor, his Heirs or Assigns, whence it was derived. The difference between a *Reversion* and a *Remainder*, is, that a *Remainder* is general, and may be to any man, but he that granteth or conveyeth the Land, &c. for term of Life only, or otherwise. A *Reversion* is to himself, from whom the Conveyance of the Land, &c. proceeded, and is commonly perpetual, as to his Heirs also, *Lit. lib. 2. cap. 12.* See *Co. lib. 2. fol. 51.* *Sir Hugh Cholmley's Case*; and yet a *Reversion* is sometimes confounded with a *Remainder*, *Co. lib. 2. fol. 67.* *Tooker's Case*, *Plowden*, fol. 170. *Hill's Case*. What this word *Reversion* in a Deed does carry, see *Littleton*, lib. 2. cap. 12.

Review, *A Bill of Review in Chancery* is, where a Cause hath been heard, and the Decree signed and enrolled; and some Error in Law appears upon the Decree, or new matter discovered in time after the Decree made, which Bill cannot be exhibited, but by licence of the Court. See *Collection of the Chancery Orders*, pag. 69.

Reviving, Is a word metaphorically applied to Rents and Actions, and signifies a renewing of them after they be extinguished. Of which see divers examples in *Broke*, tit. *Revivings of Rents, Actions, &c.* fol. 223.

Bill of Reviver, Is, where a *Bill* hath been exhibited in *Chancery* against one, who Answers, and before the Cause is heard, or if heard, before the Decree enrolled, either Party dies; In this Case a *Bill of Revivor* must be brought, that the former proceedings may stand revived, and the Cause be finally determined.

Revocation, *Revocatio*, Is the calling back of a thing granted, of which you have divers in *Reg. Orig.* as *Revocationem brevis de audiendo & terminando*, fol. 124. *Revocationem presentationis*, fol. 304, 305. *Revocationem Protectionis*, fol. 23. *Revocationem specialium Justiciariorum quia*, &c. fol. 205.

Reward. See *Regard*.

Rewey, Anno 43 Eliz. cap. 10. So as some clothes being put in water are found to shrink, *Rewey* equally cockling, light and notable faulty, &c. it is as much as unevenly wrought, and full of *Rewes*.

Rhandir, Is a part in the division of the Country in *Wales* before the Conquest, as first a *Cantref* consisted of a hundred Towns, under which were so many *Commots*, each *Commot* had twelve *Mannors* or *Circuits*, and two *Townships*; there were four *Townships* to every *Mannor*, every *Township* comprehended four *Gavels*, every *Gavel* had four *Rhandirs*, and four *Tenements* were constituted under every *Rhandir*. This word *Rhandir* admits not of any proper significancy in English, but is by Doctor *Davis* render'd *Parts aut sors hereditaria*, from the verb, *Rhannu*, *Partire*, *distribueret* *Taylor's Hist. of Gavelkind*, pag. 69.

Ribaud, Ribaldus, French Ribauld, A Vagrant, luxurious Spend-thrift, a Rogue, a Whoremonger, a person given to all kinds of wickedness and looseness. Petition against Ribauds and sturdy Beggars, *Rot. Parl.* 50 E. 3. num. 61.

Ric, Is a Saxon word, signifying as much as Regnum in Latine, *Cambd. Brit.* pag. 346.

Rider-Roll. See in Roll.

Ridge or Rig of Land, Riga, *Terram* quam è pluribus sulcis in aggerem efferunt arantes, ita ut sicca sedes frumenti habeatur, *Romani strigam* (atq; inde agros strigatos) nos a Rigd of Land, *Spelman*. However it is sometime called *Porca terra*.

Ridings, Be Names of the Divisions of Yorkshire, which are three, viz. the East-riding, the West-riding, and the North-riding, mentioned in the Statute 22 H. 8. cap. 5. and 23 H. 8. cap. 18. In Indictments in that County, 'tis requisite that the Town and the Riding be express, *West Symbol.* part 2. tit. Indictments, sect. 70. 2.

Riens passe per le fait, Is the form of an Exception taken in some Cases to an Action. See *Pro. tit. Estranger al fait ou Record*.

Riens arreare, Is a kind of Plea used to an Action of Debt upon arrearages of Account, whereby the Defendant does alledge, There is nothing arrear.

Riens deins le gard, Was a Challenge to a Jury or Enquest of London, for that four sufficient Men, &c. were not impannelled: But it is abrogated by the Stat. 7 H. 7. cap. 4.

Rier County, *Retro-comitatus*, Comes from the French *Arrier*, posterior, and in the Stat. 2 E. 3. cap. 5. is opposite to Open County; and by comparing that Statute with *Westm.* 2. cap. 38. it appears to be some publick place, which the Sheriff appoints for the receipt of the King's Money after the end of his County. *Fleta* says, That it is *Dies crastinus post comitatum*, lib. 2. ca. 67.

Right, Jus, In general signification includes not only a right, for which a Writ of right lies, but also any Title or Claim either by vertue of a Condition, Mortgage, or the like, for which no Action is given by Law, but only an Entry, *Co. on Lit.* lib. 3. cap. 8. sect. 443. There is *Jus proprietatis*, a right of Propriety; *Jus Possessionis*, a right of Possession, and *Jus Proprietatis & Possessionis*, a right both of Propriety and Possession, and this is anciently called *Jus duplicatum*: For example, If a man be disseised of an Acre of Land, the Disseisee hath *Jus proprietatis*, the Disseisor hath *Jus possessionis*; and if the Disseisee release to the Disseisor, he hath *Jus proprietatis & possessionis*, *Co. on Lit.* lib. 3. sect. 447. *Jus est sextuplex*. 1. *Jus recuperandi*. 2. *Intrandi*. 3. *Habendi*. 4. *Retinendi*. 5. *Percipiendi*. 6. *Et Possidendi*, *Co. 8. Rep.* *Edward Attham's Case*.

Right in Court. See *Rectus in Curia*.

Rime, Rishmus. Is taken for a mean kind of Verse, commonly made by some unskilful person, of which we need not give you any example, so many paltry Ballads being every day to be seen.

Rings-head, 43 *Eliz.* cap. 10. An Engine used in the stretching of woollen Cloth.

Riot, Riota & riotum, Derived from the French *Riotte* quod non solum rixam & jurgium signi-

ficat sed vinculum etiam, quo plura in unum, fasciculorum instar colligantur, signifies the forcible doing of an unlawful thing by three, or more persons assembled together for that purpose, *West Symbol.* part 2. tit. Indictments, sect. 65. The differences between a Riot, Rout, and an unlawful Assembly, see in *Lamb. Eiren.* lib. 2. cap. 5. *Stat.* 1. Mar. cap. 12. and *Kitchin* 19. who gives these examples of Riots, The Breach of Inclosures, Banks, Conduits, Parks, Pounds, Houses, Barns, the burning of Stacks of Corn, &c. *Lamb.* ubi supra mentions these, To beat a Man, to enter upon a Possession forcibly. See *Rout* and *Unlawful Assembly*. See also in *Crompt. Just. of Peace* divers Cases of Riots, *Anno* 17 R. 2. cap. 8. and 13 H. 4. cap. 7. See *Rout*.

Riparia, From *Ripa*, a Bank; In the Stat. *Westm.* 2. cap. 47. Signifies Water or River running between the Banks, be it salt or fresh, 2. *Inst.* fol. 478. The word occurs also in *Rot. Cart.* 9 E. num. 12.

Ripiers, Riparii, Had their Name a *fiscellâ* qua in devehendis piscibus utuntur, in English a *Ripp*, and are such as are to bring Fish from the Sea-coast to the inner parts of the Land, *Cambd. Brit.* pag. 234.

Rise, Orisa, Is a kind of Corn growing in Asia and the Indies, of which you may read in *Gerard's Herbal*, lib. 1. cap. 52. This is mentioned among Spices to be garbled in the Stat. 1 Jac. cap. 19.

Rother Beasts, *Anno* 7 E. 6. cap. 11. See *Rother Beasts*.

Roba, Ital. signifies *Vestis*, in English Robe.

Robbery, Robaria, Is a felonious taking away of another Mans Goods from his person or presence against his will, putting him in fear, and of purpose to steal the same, *West Symb.* part 2. tit. Indictments, sect. 60. And this Offence was called Robbery, either because they bereaved the true man of some of his Robes or Garments, or because his Money or Goods were taken out of some part of his Garment or Robe about his person, *Co. 3. Inst.* cap. 16. This is sometimes called Violent Theft, *West Symbol.* ibid. which is felony of two pence, *Kitchin*, fol. 16. and 22 lib. Aff. 39. See *Skene de verborum* Signif. verb. Reif, and *Crompt. Justice of Peace*, fol. 30.

Robbers, 5 E. 3. 14. and 7 R. 2. cap. 5. *Lamb. Eiren.* lib. 2. cap. 6. interpreteth them to be mighty Thieves; they are called in Latine *Robatores*, *laith Spelman*, being *Latrones validi qui in personas hominum insipientes bona sua diripiunt*.

Robertmen or Roberdsmen, Were another sort of great Thieves, mentioned 5 E. 3. 14. and 7 R. 2. cap. 5. *Co. 3. Inst.* fol. 197. says, *Robinhood* lived in Richard the First's time on the Borders of England and Scotland by Robbery and Spoil, and that these Roberdsmen took Name from him.

Rod, Roda Terra, Is otherwise called a *Pereb*, and is a Measure of sixteen foot and a half, and in Staffordshire twenty foot, to measure Land with. See *Pereb*.

Rodknights alias Rodknights, (Is derived from the Saxon *Rad*) in English *Road*, i. equitatus, and *Cnyrt*, *Minister*, were certain Ser-

vitors

vitors, which held their Land by serving their Lords on Horse-back, *Bract. lib. 2. cap. 36. num. 6.* faith of them, *Debent equitare cum Domino suo de Manerio in Manerio, vel cum Domini uxore, Fleta, lib. 3. cap. 14. sect. Continetur.*

Rose-tyle alias **Crest-tyle**, Is that *Tile* which is made to lay upon the ridge of the House, *17 E. 4. 4.*

Rogation week, *Dies Rogationum*, Is a time well known to all, and is so called, because of the special Devotion of Prayer and Fasting then enjoyed by the Church to all Men, for a Preparative to the joyful remembrance of Christs Ascension, from which time to Trinity-Sunday Matrimony is forbidden to be celebrated.

Rogue, *Rogus*, May be deduced from the French *Rogue*, i. *Arrogans*, and signifies an idle sturdy Beggar, who wandreth from place to place without licence, after he hath been by Justices bestowed, or offered to be bestowed on some certain place of abode; who, for the first Offence is called a *Rogue of the first degree*, and punished by whipping and boring through the gristle of the Ear with a hot Iron, an inch in compais. And for the second Offence, is termed a *Rogue of the second degree*, and put to death as a Felon; if he be above Eighteen years old. See the Stat. 14 Eliz. 5. 18 Eliz. 3. and 36 Eliz. 17. and Lamb. Eiren. lib. 4. cap. 4.

Rogus, Is the Latine word for a great Fire, and there it is *congeries lignorum ad comburendum, vocab. utriusq. juris.* Sometimes it is taken only for a Pyle or Stalk of Wood, as *Mandatum est Constabulario castri de Divis. Et custodi foreste de Cippeham quod fieri fac. unum rogum in Foresta predicta ad operationes castri predicti, &c. T. 10. Maii. Claus. 5 Hen. 3. m. 8.*

Roll, *Rotulus*, Signifies a Schedule of Paper or Parchment, which may be turned or wound up with the hand to the fashion of a Pipe, *Stamf. pl. cor. fol. 11.* of which there are in the Exchequer severall kinds. As the great Wardrobe Roll, the Cofferers Roll, the Subsidy Roll, &c. Of which see the Practice of the Exchequer-Court, fol. 75.

Ridder-roll, *Noy's Rep. fol. 84.* The Court *Ex Officio*, may award a *Certiorari ad informandum conscientiam*; and that which is certified shall be annexed to the Record, and is called a *Ridder-roll*. Or a *Ridder-roll* is a Schedule, or small piece of Parchment, added to some part of a Roll or Record.

Rolls, Or the Office of the *Rolls* in *Chancery-Lane*, anciently called *Domus Conversorum*, Is the House that was built by King Henry the Third, for Jews converted to the Christian Faith; but Edward the Third expelled them, for their wickedness, and deputed the place for the custody of the *Rolls* and Records of the *Chancery*, the Master whereof is the second in *Chancery*, and in the absence of the Lord Chancellor, or Lord Keeper, sits, as Judge, being commonly called, *The Master of the Rolls*, which see.

Romefeste, Is a Saxon word signifying *Nummum Roma datum*, for *peod*; in Saxon is *Nummus*, that is, Money in English. See *Romefot*.

Romepeny, In Saxon *rompening*, i. *Roma denarius*, for the Saxon *Pening*, is the same

as *Peny* with us, or *denarius* in Latine. See *Romefot*.

Romefot, Is compounded of *Rome* and *Scot*, as if you would say, The Tribute due to Rome. *Mat. Westminster* says it was *Consuetudo Apostolica*, a qua neg. Rex, neg. Archiepiscopus vel Episcopus, Abbas vel Prior aut quilibet in Regno immanis erat. It was annual Tribute of one Penny from every Family, paid yearly to Rome at the Feast of St. Peter ad vincula, being the first of August. *Camden* in his *Brit. sayes*, *Offa* the Saxon first granted it, but others, that *Ina*, a King of the *West Saxons*, being in Pilgrimage at Rome, Anno 725. gave it as an Alms; and was first forbidden by Edward the Third. It amounted to three hundred Marks, and a Noble yearly. See *Eg. Hen. 1. cap. 12. Rog. Hoveden par. poster. suor. annal. fol. 344. in vita Hen. 2.* and see *Peter-pence* and *Hearib-peny*. This Payment was abrogated 25 H. 8. 25. restored 1 & 2 P. & M. but utterly abolished 1 Eliz. 1. See *Spelman's Glossary*, verbiis: *Romefot*, *Romefash*, *Romepeny*.

Road of Land, *Roda terra*; The Fourth part of an Acre, 5 Eliz. cap. 5.

Rother, *dræft*, Under this Name are comprehended Oxen, Cows, Steers, Heifers, and such like horned Beasts, 21 Jac. cap. 28. And in *Hertfordshire* the Dung of such Beasts is called *Rotherfoyle*.

Rotulus Wintonie, *Doomsday Book* so called, because it was of old kept at *Winchester*. See *Doomsday*. *Spelman* in his *Glossary* says, There was another Roll called *Rotulus Wintonie*, made long before that by King *Alfred*; concerning which, hear *Inghelb* speaking of *Doomsday-Book*. *Talem* (says he) *Rotulum & nullam finem ediderunt* quendam Rex *Alfredus* in quo totam terram Anglie per Comitatus, Centurias, & Decurias descripsit, &c.

Rotulus Cancellarie, *bracton, lib. 3. cap. 24.* *Omnia Brevia de pace* (quæ sunt prohibitiones) *rotulari debent in Rotulo de Cancellaria.* See *M. P.* in an. 1110. p. 61.

Rouge Crosse. See *Herald*.

Roundlet. See *Runlet*.

Rout, *Routa*, *Turma*, *Cohors*, A Company or Number, but in a legal sense signifies an Assembly of three persons, or more, going forcibly to commit an unlawful Act; though they do it not, *West. Sym. part 2. tit. Indictment, sec. 65.* says, A *Rout* is the same which the *Germans* yet call *Rot*, meaning a Band, or great Company of Men gathered together, and going to execute, or indeed executing any Riot or unlawful Act. But the Statute of 13 E. 3. stat. 1. cap. 1. which gives Process of Outlawry against such as bring *Routs* into the presence of the Justices, or in array of the People. And the Statute of 2 R. 2. cap. 6. that speaks of riding in great *Routs* to make entry into Lands, and beat others, &c. do seem to understand it more largely. *Bro. tit. Riot 4. 5.* So that a *Rout* seems to be an unlawful Assembly, and a *Riot* the disorderly Fact committed by such unlawful Assembly. Howbeit two things are common both to *Riot*, *Rout*, and unlawful Assembly. The one, That three persons at least be gathered together. The other, That being together, they do disturb the Peace, either by words, shew of Arms, turbulent Gesture, or actual Violence.

lence, &c. Lamb. Eiren. lib. 2. cap. 5. See Riot and unlawful Assembly.

Rowing of Clothes, 27 H. 8. 13. It may perhaps be derived from the French Rover, *ver-lare*, Rotare quia rotâ circumdullâ pannos complanare solebant.

Royal Assent, *Regius Assensus*, Is that Assent which the King gives to a thing formerly done by others, as to the Election of a Bishop by Dean and Chapter, which given, then he sends a special Writ for the taking of Fealty. The form of which you may see in F. N. B. fol. 170. And to a Bill passed in both Houses of Parliament, *Crompt. Jur. fol. 8.* which Assent in Parliament being once given, the Bill is endorsed with these words, *Le Roy le veut*, i. It pleases the King; but if he refuse to agree to it, then thus, *Le Roy s'avisera*, i. The King will advise.

Royalities, *Rogalia vel Regalitates*, Are the Rights of the King, *Jura Regis*, otherwise called *The Kings Prerogative*. Some of these be such as the King may grant unto common persons; some so high, that they may not be separated from his Crown privative, as the *Civilians* call it, though *Common-law* they may. See *Bracton*, lib. 2. cap. 5. and *Matheum de offitiis*, upon the Title of the Feuds, *Que sint regalia*, where he reckons up twenty five special particulars of Royalities. See also *Hottomans Commentaries*, in lib. 2. Feudor. cap. 56. and see *Prerogative & regalia*.

Rugi, *Ruſſians*, *Leg. Ed. Conf. tit. De L. Noricorum*—*Aufugit ad regnum Rugorum quod nos melius vocamus Ruſſiam*; And afterwards speaking of Margaret the Sister of Edgar, and Queen of Scots, *ex parte vero matris, ex genere de sanguine regum Rugorum*.

Rudge washed Bersley, Is that which is made of Fleece-wool, waſht only on the Sheeps back, 35 *Eliz. cap. 10.*

Runcilus & Runcinus, Is used in *Doomſday* (says *Spelman*) for a Lead-Horse, *Equus operarius colonicus*, or a Sumpter-Horse; and sometimes for a Cart Horse, which *Chaucer* in the *Seamans Tale* calls a *Rowncy*.

He roth upon a Rowncy as he rowth.

Rune, From the Saxon *Runnunge*, i. a course or running a Water-course, so called in the *Marſhes of Somerſetſhire*: *History of imbanking and drayning*, fol. 106.

Runket alias Rountlet, Is a certain Measure of Wine, Oyl, &c. containing eighteen Gallons and a half, *Anno 1. R. 3. cap. 13.*

Ruod, *Leg. Saxonum*, tit. 2. sect. 1. — *Qui nobilitatem occiderit iccetil. fol. compenat. Roda quod dicitur apud Saxones crux. fol. & inter premium crux. ad Ruod veteri lingua Saxonica crucem significat.* For it is most certain, that our Ancestors the Saxons called the Cross *Rode* or *Ruod*; hence came the *Rode Day*, and we still call *Diem Sanctæ Crucis*, *Whitſunday*.

Rupta, Is the same with *Rura*, which see *Mat. Paris* in *Anno 1199.* use it for a Troop of Soldiers. — *Qui duces fuerunt caterue (quam Rutam vocamus) militantes sub Comite Jo. fratre Regis Richardi equitationem facerent, &c.*

Ruptarii, Milites, Soldiers, *Mat. Par.* in *Anno 1199.* *Sed quoniam idem Episcopus (Belluacensis) contra ordinis sui dignitatem captus fuerat in armis, ut miles vel Ruptarius, non prius est abire permittus donec 6000. argenti carucis ad pondus sterlingorum numeratis & sicut commendatis Regia concupiscentia satisfecisset.* *Hollinshead*, pag. 243. calls them *Rutters*, and pag. 98, 99. *Ruptarii*.

Rural Deanes, *Decani rurales*, Of whom *Spelman* gives this account, *Sunt Decani temporales ad aliquod Ministerium sub Episcopo vel Archiepiscopo exercendum constituti; qui nec habent institutionem Canoniam secundum Doctores.* And this Rural Dean he supposes to be the same, which in the Laws of *Edward the Confessor*, cap. 31. is called *Episcopi Decanus*. See *Deane*. Each Diocese hath in it one or more Arch-deaconries, for dispatch of Ecclesiastical business, and every Arch-deaconry subdivided into fewer or more Rural Deaneries, *Heylins Cosmog. fol. 304.* and he says, they were anciently called *Arch-Presbyteri & Decani Christianitatis*.

Rufca, In *Doomſday Book*, tit. *Cestre*, we find these words in substance, *When the King himself came in person to Chester, every Carucata yielded him two hundred Hestae's, and one Tun of Ale, and one Rufca of Butter*; but what quantity that *Rufca* contained appears not: *Rufca apud* signifies a Hive of Bees.

Rufche, *Mellarium, alveare*, For so it seems to signify in a Charter of *Will. Bray Knight*, made to the *Canons of Olney*. — *Ita tamen, ut tantum de apibus, quas ipse Will. & discipuli sui, & homines sui in Curia habebant, decimas percipiant, sicut de Ruschis.* It may be derived from the French *Ruche*, that signifies in *Latin* *Alveare*.

Rymmers about, They seem to be *Vagabonds*, q. d. *Roamers about*, *Shenck*, lib. *De Crimin. Capital.* tit. 2. C. 14. *Paragr. 2. F. 135. p. 2.*

S.

Sabbatum, In *Doomſday*, tit. *Sudsex*, Is used for Peace, *Terra Will. Episcopi de Tetford*, *Bisides hundred*, num. 18. *Postquam Willielmus Rex advenit & sedebat in Sabbato, & Willielmus Mallet fecit summi mastellum de Riza, &c.*

Sables. See *Furze*.

Sac, *Saccha vel saucha*. This *Minshew* renders to signify a Royalty or Privilege touching Plea, or Correction of Trespases of men within a Mannor; and that the word *Sac* in the Saxon Tongue properly signifies as much as (*Causa* with the Latines.) *Sake*, whence we in English still retain the Expression, For whose sake, &c. that is, for whose Cause: But in the Laws of *Edward the Confessor* thus, *Saccha est quod si quilibet aliquem nominatim, de aliquo contumaciter fuerit & ille negaverit, sibi factum probationis vel negationis (si everserit) sua erit.* I will also exhibit an Exposition both of *Sacba* & *Saccha* out of a very ancient Manuscript Book, in which are registered several Donations to a Cathedral Church in England, being in the Custody of *Silas Taylor Gent.* where, after the recital of a certain Charter granted by *Edward the Confessor* to them, *Cam Saka &*

cum

can Soka; There follows an Exposition of them both in red Letters thus;

Equitur expositio illorum Terminorum Soka & Saka.

Oka, Hoc est sessa de hominibus in curia vestra secundum consuetudinem Regni.

Adca, Hoc est placitum & emenda de transgressionibus hominum in Curia vestra.

The first is only the Suit of Court due by the Inhabitants of a Lordship or Mannor, and Sac is the liberty of holding Pleas, and imposing Mulcts and Forfeitures upon Transgressors in that Court. But *Rastal*, and some others, define Sac to be the Forfeiture it self. *Bracton*, lib. 3. tract. 2. cap. 8. quoted by *Stamford* in his *Pleas of the Crown*, lib. 1. cap. 23. uses the word, but both of them leave the signification undetermined. *Skene de verbor. Signif. verb.* Sack, writes, That in some old Books it is called Placitum de transgressionibus hominum in curia vestra, see him at large, and *Hoveden*, part *suor. annal.* fol. 345. See *Keilways Rep.* fol. 145. Et *Breve Hen. 2. Justiciariis de Norfolk.* Precipio ut sanctus Benedictus de Ramsey ita bene & libere habeat Socam & Sacam suam, &c. See *Soka*.

Sakaburth alias Sakebere, Is he that is robbed, or by Theft deprived of his Goods, *Britton*, cap. 15. & 29. with whom agrees *Bracton*, lib. 3. tract. 2. cap. 32. num. 2. Thus, Furtum vero manifestum est ubi latro deprehensus sit, scilicet de aliquo Latrocinio, scilicet. Houbhabend & Sakeberende, & infensus fuerit per aliquem cuius res ille fuerit qui dicitur Sakaburth, & sine sessa cognoverit se inde esse Latroem coram Vice-comite, vel Coronatore, vel serviente Domini Regis cum testimonio propterea hominum, extunc furtum deducere non possit, quia tales in hoc habent recordum. The Scots term it Sackeborgh & Sakerborgh, that is, certum vel securum pignus vel pignus; For with them Saker signifies Securus, and Borgh, Plegius; As if one should say, He that is taken flying with the thing stolen about him, seems thereby, as by a certain Token, to have betrayed his Guilt. But Sakaburth may more reasonably be derived from Sac or Saca, that is, *latro* or *causa*, and hinc pignus, Propterea quod res furta sit quasi cause pignus, so says *Spelman*. Sir *Edm. Co. 3 Inst.* fol. 69. will have it come from *Sak* and *Bur*, that is, He that bears the Bag; from which *Spelman* differs not much, when he says the word Saker is quasi sacam ferens vel lator.

Saccus cum Brochia, Was a Service or Tenure of finding a Sack and a Broach to the King, for the use of his Army, *Bracton*, lib. 2. tract. 1. cap. 6. hath these words, Si quis tenet per servitium inveniens Domino Regi certis locis & certis temporibus anum bovium & anum equum & Saccum cum Brochia pro aliqua necessitate vel utilitate exercitum suum contingentem.

Sackeborgh alias Sakerborgh, Securus plegium vel pignus, A good Rledge or sufficient Caution. See *Sakaburth*.

Sack of Wool, Saccus Lani, Is a quantity of Wool containing twenty six stones, and every

stone fourteen pounds, 14 E. 3. Stat. 1. cap. 2. See *Sarplar*. In Scotland it is twenty four stones, and each stone sixteen pound. See *Skenk*.

Sackfield Ments, Are certain small Rents paid by some Tenants of the Mannor of *Widdow* in *Somersetshire*, to Sir *Charles Waddgrave* Lord thereof; but he cannot tell why they are so called.

Sacramento recipiendo, quod vidua Regis se non maritabit sine licentia Regis, Is a Writ or Commission to one, for the taking of an Oath of the King's Widow, that she shall not marry without the King's Licence, *Reg. Orig.* fol. 298.

Sacramentum plenum, Diffum reor (says *Spelman*) de completo numero duodenario, ut in *Leg. Edw. Confess. ab Inglepho datis*, cap. 17.

Sacrobarræ, Lib. M. S. de Officio Coronatoris, Inquirendum est per 12 juratores pro lege super Sacramentum suum quod fideliter presentabunt sine ulla concelamento omnes fortunas (i. fortasse occisos) ad iuraciones, appella munda Sacrobarræ, felonias factas, per quos & qua, &c. Quare, saith *Spelman*, if Sacrobarræ be not the same with *Sarrilegia*.

Safe Condukt, Salvo Conduktu, Is a Security given by the Prince, under the Great Seal of England, for his quiet coming in and passing out of the Realm; touching which, read the Statutes, 15 H. 6. 3. 18 H. 6. 8. & 28 H. 8. cap. 1. and the form of it, *Reg. Orig.* fol. 25.

Safe guard, See *Salva gardia*.

Safe pledge, Salvo plegium, Is a Surety given for a Man's Appearance against a day assigned, *Bracton*, lib. 4. cap. 2. num. 2. where it is also called curius plegium.

Sagibaro alias Saphbaro, The same that at present is called *Justiciarius*; for *Sagibaro* is a word causam iudices qui in publicis conventibus ius dicunt, litte, dirimunt, & from whence also the Name may be derived; For *Sac* or *Sag* signifies *causam* or *litum*, and *Baro* virum vel hominem, as one would say, Vir causam, a Judge.

Sagitta Barbara, A bearded Arrow, such as we usually call a broad Arrow.

Sailing ware, Anno R. 3. cap. 8. May be Canvas, or such other Cloth as Sails for Ships are made of.

Saka. See *Sac*.

Salary, Salarium, Is a recompence or consideration made to a Man, for his pains or industry bestowed on another mans business. The word is used 23 E. 3. cap. 1.

Saler, Is a Head-piece, 4 & 5 P. & M. From the French *Salut* 1. Salut, mentioned also 20 R. 2. cap. 1. See *Salut* or *Scut* of Iron, otherwise called a *Morion* or *Pot*.

Sallation, Is the Latine word for *Cal*. Some paid for *Sak*, according to *Clarendon*.

Sals & Salones, sals vel pagistratus spinifer, A Tipstaff or Sergeant at Arms, qui reus presentat in iudicium. It may be derived from the Saxon *salol*, *Fasten*, because they use to carry a Rod or Staff of Silver.

Salina, A Salt-pit, a House or Place where Salt is made, In *Herbagerii & Piscarii*, in *Galinis*

& *Fabre*, in *maneriis ferreis*, &c. Carta 17 E. 2. no. 28.

Salique Law, *Lex salica*, *De terra salica nulla portio hereditatis mulieri veniat, sed ad virilem sexum tota terra hereditas perveniat*, &c. Was an ancient Law made by Pharamond King of the Franks, part of which seems to have been borrowed by our Henry the First in compiling his Laws, as cap. 89. *Qui hoc fecerit secundum Legem salicam morietur*, &c.

Salmon-Pipe, 25 H. 8. cap. 7. Is an Engine to catch *Salmons*, or such like Fish.

Salmon Isme, Seems to be the young fry of *Salmon*, *Quasi salmon isue*, 13 R. 2. Stat. 1. cap. 19.

Saltatorium, A Deer-leap, *Clamat habere liberam parcam suam apud Halton cum duobus saltatoriis in eodem*, Pl. apud Cestriam, 31 E. 3.

Saltus, Highwood. See *Boscus*.

Salva garbia, Is a security given by the King to a stranger, fearing the violence of some of his Subjects, for seeking his Right by course of Law; the form whereof, see in *Reg. Orig.* fol. 26.

Salvage Money, Is a recompence allowed by the Civil Law, in lieu of all Damages sustained by that Ship that saves or rescues another which was set upon by Pyrats or Enemies.

Salute, *Salus*, was a Coin of Gold stamped by King Henry the Fifth in France, after his Conquest there: Whereon the Arms of England and France were stamped quarterly, see *Stow's Chr.* pag. 589.

Salvus Plegius. See *Plegius*.

Sanctuary, *Sanctuarium*, Is a place privileged by the Prince, for the Safeguard of Mens Lives that are Offenders, being founded upon the Law of Mercy, and upon the great Reverence, Honour and Devotion, which the Prince beareth to the place where he granted such a Privilege; *Stanf. Pl. Cor. lib. 2. cap. 38*. This seems to have taken beginning from the Cities of Refuge, mention'd *Exod. cap. 21*. In imitation whereof, first the *Abbas*, then *Romani*, erected such a place of Immunity, which they called *Asylum*. *Polydor. Virgil. de Inventionem rerum*, lib. 3. cap. 12. The like did the *Roman Emperors*, as appears, *Cod. lib. 1. tit. 15*. But among all others, our ancient Kings of England attributed most to these *Sanctuaries*, permitting them to shelter such, as had committed both Felonies and Treasons, so that within forty days they acknowledged their Fault, and submitted themselves to Banishment: During which time, if any Lay-man expelled them, he was excommunicated; if any Clerk, he was made irregular: But after forty days, no man might relieve them; *Stanf. Pl. Cor. lib. 2. cap. 38*. See of this the *New Book of Entries*, north *Sanctuary*, and *Fifth lib. 1. cap. 29*. and how by degrees they have been taken away, read 26 H. 8. 13. 28 H. 8. 7. 32 H. 8. 12. 33 H. 8. 15. 1 R. 6. 12. 2 E. 6. 2 & 3. 5 E. 6. 10. See *Abjuration*. Of these there were many in England, but one more famous than the rest, at *St. John's of Beverley*, which the Saxons called *Wyrdhol*, which had this Inscription, *Hec sedes Lapideis Fredrici, dictus Pauli Capite de hoc loco, reus fugiens prociuit, annimodo habet securitatem*. *Wyrdhol* is *Wyrd* and *hol* is *hol*.

Sandball, 2 R. 2. cap. 1. Is a Merchandise brought into England, and is a kind of Wood brought out of India; for *scandal* in French signifies, and the like does *fantatum* in Latine.

Sand gavel, In the Lordship of *Redeley* in *Com. Glouc.* the Tenants pay to the Lord a certain Duty of *Sand-gavel*, for liberty granted to them to dig up sand for their uses, *Taylor's History of Gavelkind*, pag. 113.

Sarclim time, Is the time when the Husbandman weeds his Corn. And it proceeds from the French *Sarcler*, or the Latine *sarclare*, both which signifies to weed; from whence also proceeds *sarclum*, a weeding Hook.

Sarplar, *Sarplera Lana*, otherwise called a *Pocket*, is half a Sack; a Sack eighty Tod, a Tod two stone, and a stone fourteen pound, *Fleta*, lib. 2. cap. 12. This in Scotland is called *Serplith*, and contains fourscore stone. For the Lords of the Council, Anno 1527. decreed four *Serpliths* of packed Wooll to contain sixteen score stone of Wooll. See *Shene de verbor.* Signif. verb. *Serplith*, and 3 par. *Instit.* fol. 96.

Sarum, Is intended for the City of *Salisbury*; It was a form of Church-Service called *Secundum usum Sarum*, and was composed by Edmund the second Bishop of Sarum in the time of William the Conqueror, *Hollinhead*, pag. 17. col. B.

Sarre, Anno 16. & 17 Car. 2. Cap. 12. Is a kind of Wear with Flood-gates, most commonly in cut Rivers, for the shutting up and letting out the Water, as occasion requires, for the more ready passing of Boats and Barges, to and fro. This in some places, as *Gallford River* is called a *Lock*, in others less properly a *Turnpike*, and in others a *Sluice*.

Saturdayes stop, Is a space of time in which of old it was not lawful to take *Salmons* in Scotland and the North of England, that is, from Even-song on *Saturday* till Sun-rising on *Monday*.

Saver default, Is word for word to excuse a default: This is properly, when a man having made a default in Court, comes afterwards and alleges a good Cause why he did it, as Imprisonment at the same time, or such like, *New Book of Entries*, verb. *Saver de default*.

Saukenstine, May be derived from the French *Sau*; *fungis*; and *Pin*; *stis*; and is a Pluride used by *Britons*, cap. 115. for the determination in final race of a descent of Kindred.

Saxenlage, *Saxenlaga*, *Lex Saxonum*. See *Merchenlage*.

Sacabini, Wardens; was a word used by the Wardens of *Linne* in *Norfolk* in a Charter in these words, *Scient presentes et futuri quod nos Richardus Bowghere Aldermannus, Edw. Baker, Joh. Browne, Rob. Some, & Will. Hall, Draper, Custodes five scabini & fratres fraternitatis five Gilda Mercatorie sancte Trinitatis ville Lenne Episcopi in Com. Norf. pro quadam pecunia summa inter nos prefatum Aldermannum & Custodes five scabinos, & fratres & Thomam Miller de Lenne predicta mercatorem concordati, tradidimus, Dimissimus & Possidimus, &c. istam illud Mesuagium nostrum, &c. Dat. 20 die Apr. Anno Reg. Regis Hen. 8. 18.*

Scandalum

Standalum Magnatum, Is the special name of a wrong done to any high Personage of the Land, as Prelates, Dukes, Earls, Barons, and other Nobles; and also of the Chancellor, Treasurer, Clerk of the Privy-Seal, Steward of the House, Justice of one Bench or other, and other great Officers of the Realm, by false News, or horrible or false Messages, whereby debates and discords betwixt them and the Commons, or any scandal to their persons might arise, Anno 2 R. 2. cap. 5. and hath given Name to a Writ, granted to recover damage thereupon.

Scavage, Scavagium, It is otherwise called **Cherbage, Shewage** and **Scheauwing**, may be deduced from the Saxon reapian, *ostendere*, and is a kind of Toll or Custom exacted by Mayors, Sheriffs, &c. of Merchant-strangers, for Wares shew'd or offered to sale within their Precincts, which is prohibited by the Statute 19 H. 7. 8. In a Charter of Henry the Second to *Canterbury* it is written *Schewinga*. The City of London still retain the Custom, of which in an old Printed Book of the Customs of London, We read thus, *Of which Custom halfe denel appertaineth to the Sheriffs, and the other halfe denel to the Hostys in whole Houses the Merchants been lodged: And it is to wet that Scavage is the Shew, by cause that Merchandys shewen unto the Sheriffs Merchandises, of the which Customs ought to be taken one that any thing thereof be sold, &c.*

Scavenger, From the *Belgick* *Scaban*, to scrape. Two of every Parish within London and the Suburbs, are yearly chosen into this Office, who hire men called *Rakers*, and Carts to cleanse the Streets, and carry away the Dirt and Filth thereof, mentioned 14 Car. 2. cap. 2.

Schaffa, A sheaf, as *Schaffa sagittarum* a sheaf of Arrows. See *Skene de verbor. Sign. voc. verbo*.

Schildpeny, *Tributum singulo scuto imposu- tum escuagium, scutagium, vide.*

Scarralla, It was especially given in charge by the Justices in Eyre, that all Juries should inquire *De his qui piscantur cum Kiddellin & Skarcallin*, Co. 2. par. Inst. fol. 38.

Scire facias, Is a Writ Judicial, most commonly to call a Man to shew cause to the Court whence it issues, why Execution of a Judgment passed, should not be made out: This Writ is not granted until a year and a day be elapsed after a Judgment given, *Old Nat. Brev. fol. 151.* *Scire facias* upon a Fine lies not, but within the same time after the Fine levied, otherwise it is the same with the writ of *Habere facias seisinam*, *West Symbol. part 2. tit. Fines, sect. 137. and 25 Ed. 3. stat. 5. cap. 2. & 39 Eliz. cap. 7.* Other Diversities of this Writ you may find in the Table of the Register Judicial and Original See also the *New Book of Entries*, verb. *Scire facias*.

Sitre, 31 H. 8. cap. 20. See *Sire*.

Scot, A part or portion, according to *Rassall*, is a certain Custom, or common Tallage, made to the use of the Sheriff, or his Bayliffs: *Scot* (says *Camden* out of *Mat. Westm.*) *liber di-*

citur quod ex diversis rebus in unum acervum aggregatur, Anno 22 H. 8. cap. 3. **Bearing neither Scot, Nor noz other Charges, &c.** Et Anno 33 H. 8. cap. 9. See *Doomsday & Spelman.* *Scot and Lot*, 39 H. 8. 9. signifies a Customary Contribution laid upon all Subjects, according to their Ability. *Hoveden* (in the beginning *Hen. 2.*) writes it *Anlote* and *Anlote*. See *Leg. Gul. Conq. cap. 125.* the same words. And *Hoveden* in Anno 1088. *Rez omne injustum scotum interdixit.* --- *Foret Ballivus ad scotta pro reparatione & sustentatione Walliarum, &c. assesa levandum, Ordinatio Marisci Romeneiensis, pag. 56.* And again, pag. 64. *Ballivus habeat pro labore suo dupla levanda que tempore suo de scottis assesis & levatis contingant; And afterwards, pag. 69. Tam generales scottas quam sepeales aquagangias assisas ut praedictum est onerabit.* And at last, pag. 73. *Statuerunt quod quilibet scottus assesis proclamaretur.* Nor are these old words grown obsolete, for who ever in like manner (though not by equal portions) are assessed to any Contribution, are generally said to pay *Scot and Lot*.

Scotall alias Scotale, Scotalla & scotalium, Is a word used in the Charter of the Forest, in these words, cap. 7. *Nullus forestarius vel Bedellus faciat scotallas vel Garbas colligat vel aliquam collectiam faciat, Manwood's Forest Law, Part 1. pag. 216.* A *Scotale* is, where any Officer of the Forest keeps an Ale-house within the Forest, by colour of his Office, causing men to come to his House, and there to spend their Money for fear of having displeasure. It is a compound of *Scot* and *Ale*, which is otherwise called an *Alehou*, *Morandum quod praedicti tenentes (de Southmalling) debent de consuetudine inter eos facere scotalium de 16. denar. & ob. Ita quod de singulis sex denariis, 1. denar. & ob. ad potandum cum Bedello Domini Archiepiscopi super praedictum feodum, Ex vet. Consuetudinario de Southmalling in Archivis Archiep.*

Scrubland, A Saxon word, and is *Terra cujus proventus vestibus emendis assignati sunt.* Land allotted for buying Apparel. See the *Saxon Dictionary* hoc verbo.

Scutage, Scutagium; Henry the Third for his Voyage to the Holy Land, had a Tenth granted by the Clergy, and *scutage*, three Marks of every Knights Fee by the Layety, *Baker's Chron. in vita, Hen. 3.* This was also granted to Henry the Second, Richard the First, and King John.

Scutagio habendo, Was a Writ that lay for the King, or other Lord, against the Tenant that holdeth by *Knights service*; to serve by himself, or else to send a sufficient Man in his place, or pay, &c. where the King intends to make a Warlike Expedition against the Scots or French, *F. N. B. fol. 83.* It is used in the *Register Original*, for him to recover *Escuage* of others, that hath either by Service or Fine performed his own to the King, fol. 88. a.

Scutum Armorum, A Coat of Arms, --- *Noverint universi per presentes me Johannam nuper uxorem Will. Lee de Knightley Dominam & rectam heredem de Knightley dedisse, &c. Richardo Peshale filio Humfridi Peshale scutum armorum meorum. Habend. & tenend. ac portand. & utend. ubicunq; voluerit sibi & heredibus suis in perpetuum; Ita*

Ita quod nec ego nec aliquis alius nomine meo aliquod jus vel clameum vel calumpniam in predicto scuto habere poterimus, sed per presentes sumus exclusi in perpetuum, In cuius, &c. Dat: apud Knightley, Anno 14 H. 6.

Scepe-gemot, Is a mere Saxon word, and signifies a Court held twice every year (as the Sheriffs Turn is now) by the Bishop of the Diocese and the Ealdorman (in Shires that had Ealdormen) and by the Bishops and Sheriffs, in such as were committed to the Sheriffs that were immediate to the King, wherein both the Ecclesiastical and Temporal Laws, were given in charge to the Country, *Selden's Titles of Honor*, fol. 520. See *Constitution*.

Strangium, In *Doomsday* is used for Exchange, according to the Interpretation of Mr. Ager of the Exchequer.

Seale, Sigillum, Is a thing now well known, but not so heretofore: For the first sealed Charter we find in England, was that of King Edward the Confessor, when he founded Westminster Abbey. And Taylor in his History of Gavelkind, fol. 73. asserts other of the same King's Seals; Edward the Confessor (says he) made a Grant of some Privileges to the Church of Hereford, and firmed it with a Seal, which in one of their Register Books is described to be preserved in *Panno serico*, and a Memorandum also of the Circumscription of the said Seal, to be this, *Hoc est sigillum Regis Edwardi*. And in many places of *Doomsday Book* it is recorded, That Lands did pass to several People under the Seal of King Edward; as in *Berkshire*, under the Title of *Terra Henrici de Faversham*; *Godricus Vicecomes tenuit de Rege Edwardo, Hanc terram dedit Rex Edwardus de sua firma Godrico, & inde viderunt sigillum ejus homines de Comitatu*, præter istas bidas accepit ipse Godricus de firma Regis unam V s. terram, de qua non viderunt sigillum Regis; By which it appears, that the Saxons looked upon sealing as of great strength and efficacy to their validating of Deeds and Conveyances. See *Wange*. Anno 1536. *Dominietiam atq; generosi, reliquis imaginibus equitum in sigillis posuerunt Arma sua in parvis scutis*, Chron. Joh. Rossi in Biblioth. Cotton.

Sealer, Sigillator, Is an Officer in Chancery appointed by the Lord Chancellor, or Lord Keeper, of the Great Seal of England to seal the Writs and Instruments there made in his presence.

Seame, Saxon. See *Seme*.

Seane fish, Seems to be a sort of Fish which is taken with a very great and long Net called a *Seane*.

Searcher. See *Alneger*.

Searover, Anno 16 Car. 2. cap. 6. See *Pyrate*.

Second delivrance, *Secunda deliberatione*, Is a Writ that lies for him, who, after a return of Cattel, replevied; Adjudged to him that distrained them, by reason of a default in the Party that replevied, for the replevying of the same Cattel again, upon security put in for the redelivery of them in case the Distress be justified, *New Book of Entries*, verbo *Replevium in secund delivrance*, fol. 522. See *Dyer*, fol. 41. num. 4. 5.

Second Marriage, *Secunda Nuptia*, Is when after the decease of one, he marries a second

Wife. This our Law terms *Bigamus*, and had so little favour too, that it admitted not such to holy Orders.

Setta ad Curiam, Is a Writ that lies against him who refuses to perform his Suit either to the County or Court Baron, *F. N. B.* fol. 158.

Setta facienda per illam quæ habet tenetiam partem, Is a Writ to compel the Heir that hath the elders part of the Co-heirs to perform Service for all the Coparceners, *Reg. Orig.* fol. 177.

Setta Molendini, Is a Writ lying against him that was wont to grind at the Mill of B, and after goes to another Mill with his Corn, *Reg. Orig.* fol. 153. *F. N. B.* fol. 122. But it seems by him, that this Writ lies especially for the Lord against his Frank-tenement, who held of him by making suit to his Mill. See the *New Book of Entries* on this word *Setta ad molendinum*, and *Affises of Nuisance* are at present much turned into Trespasses and Actions upon the Case. See *Baldwinus ad titulum de servitutibus prædiorum in Instit.*

Settam proferre, *Est testimonium legalium hominum qui contractui inter eos habito interfuerint presentes producere*, *Fleta*, lib. 2. cap. 63. sect. Nullus, and *setta* is used for a Witness, *Id.* lib. 4. cap. 16. sect. final. *Habes tamen settam unam vel plures*, &c.

Setta ad justitiam faciendam, Is a Service which a Man is bound to perform by his Service, *Bracton*, lib. 2. cap. 16. num. 6.

Setta unica tantum facienda pro pluribus hereditatibus, Is a Writ that lies for that Heir that is distrained by the Lord to more Suits than one, in respect of the Land of divers Heirs descended unto him, *Reg. Orig.* fol. 177. 4.

Setta thirarum, *Per settam thirarum clamatur esse quietus de setta in Com. Cestria & Flint coram Justic. Domini Principis in communia una Placitorum*, *Plac. in Itin.* apud Cestriam, 14 H. 7.

Settis non faciendis, Is a Writ that lies for a Woman, who, for her Dower, ought not to perform suit of Court, *Reg. Orig.* fol. 174. It lay also for one in Wardship, to be freed of all suits of Court during his Wardship, *Reg. Orig.* fol. 173. but see 12 Car. 2. cap. 24.

Secunda superrotatione pasturæ, Is a Writ that lies where admeasurement of Pasture hath been made; and he that first surcharged the Common, doth again surcharge it, notwithstanding the Admeasurement, *Reg. Orig.* fol. 157. *Old Nat. Brew.* fol. 73.

Secundary, Secundarius, That Officer who is the second, or next to the chief Officer; as the secundary of the Fine Office: The secundary of the Compters, who is the next to the Sheriff of London in each of the two Compters; secundary of the Office of the Privy Seal; Anno 1 E. 4. cap. 1. *Secundaries of the Pipe two: Secundary to the Remembrancers*, which are two Officers in the Exchequer, *Camd.* pag. 113.

Securitatem inveniendi quod se non debet ad partes externas sine licentia Regis, Is a Writ that lies for the King against any of his Subjects, to stay them from going out of his Kingdom; The ground of which is, That every man is bound to serve and defend the

the Common-wealth, as the King shall think meet, *F. N. B. fol. 85.*

Securitate pacis, Is a Writ that lies for one who is threatned Death or Danger, against him that so threatneth, and is taken out of the Chancery, and directed to the Sheriff; the form and farther use whereof, you may see in *Reg. Orig. fol. 88.* and *Fitz. Nat. Brev. fol. 79.*

Se defendendo, Is a Plea for him that is charged with the death of another, saying, He was necessitated to do that which he did in his own Defence: The other so assaulting him, That if he had not done as he did, he must have been in hazard of his own life: But this danger ought to be so great, that it seems inevitable, *Stamf. Pl. Cor. lib. 1. cap. 7.* And though he justifie it to be done in his own defence, yet he is driven to procure his Pardon of course from the Lord Chancellor, and forfeits his goods to the King, according to the same Author.

Seignior, *Dominus*, Is borrowed of the French *Seigneur*, and denotes in the general signification as much as Lord; but particularly it is used for the Lord of the Fee, or of a Mannor, even as *Dominus* or *Senior* among the *Feudists* is he who grants a Fee, or Benefit, out of the Land to another: And the reason is, as *Hoteman* saith, because having granted the use and profit of the Land to another; yet the Property, that is, *Dominium*, he still retains in himself. See *Hoteman in verbis feudat. verb. Dominus et senior.*

Seignior in gross, Seemeth to be one that is a Lord, but of no Mannor, and therefore can keep no Court, *F. N. B. fol. 3.*

Seignourage, *9 H. 5. Stat. 2. cap. 1.* Seems to be a Royalty or Prerogative of the King, whereby he challengeth allowance of Gold and Silver brought in the masse to his Exchange for Coyn.

Seignory, *Dominium*, Is borrowed from the French *Seigneurie*, i. *seigneuria*, imperium, principatus; and signifies with us a Mannor or Lordship, *Seignory de Bokemans*, *Kitch. fol. 86.* **Seignory in gross**, which seems to be the Title of him who is not Lord by means of any Mannor, but immediately in his own person, as *Tenure in Capite*, whereby one holds of the King as of his Crown, is *seignory in gross*, *Kitchin, fol. 206.* See *Seignior*.

Seisin, *Seisina*, From the French *Seisire*, *possidere*: *Sopprimer seisin* is the first Possession, and *to seise*, is to take Possession. See *Premier seisin*, of the French word *Seisir*, is made the Latine *seisire* used both by the Canonists and Civilians; *Seisin* according to the Common Law is two-fold, *seisin in Re*, and *seisin in Law*, *Perkins Dower, 369, 370.* *Seisin in Re* is, when a corporal Possession is taken; *Seisin in Law* when something is done, which the Law accounteth a *seisin*, as an *inrolment*: And this *seisin in Law* is as much as a right to Lands and Tenements; though the Owner be by wrong disseised of them, *Perkins Tenant per de morte cap. 7. 478.* And it seems by *Ingham*, That he who hath had an hours possession quietly taken, hath *seisin de droit et de clameur*, whereof no man may disseise him by his own force or subtilty, but must be driven to his Action, *feil. Briefe de Novel Disseisin. Coke, lib. 4. fol. 5.*

calls it *seisin in Law*, or *Actual seisin*. The Civilians call the one *Civilem possessionem*, the other *Naturalem*.

Seisina habenda, *quia Rex habuit annum, diem & instantum*. Is a Writ that lies for delivery of *seisin* to the Lord of his Lands or Tenements, that was formerly convicted of Felony, after the King, in the right of his Prerogative, hath had the year, day and wast, *Regist. Orig. fol. 165.*

Selda, May be deduced from the Saxon *Selbe*, seat or stool. *Affisa mensurarum, Anno 9 Rich. 1. apud Hoveden, --- Prohibemus ne quis mercator pratendat seldæ fax rubros pannos vel nigros vel scuta vel aliqua alia, per quæ visus emptorum sepe decipiuntur, ad bonum pannum eligendum, In Majoribus Chronicis ubi locus hic vertitur. Spelman* says, *Selda* is expounded for a Window: It signifies also a shop, shed, or stall, *Sciant, &c. quod ego Thomas Pencombe de Bromyard dedi, &c. Thomæ Forset vicario Ecclesiæ de Bromyard præd. unam seldam meam jacentem in Bromyard præd. &c. Dat. &c. Anno 10 H. 6. --- Et medietatem unius seldæ vocat. Le Unicorn in London. Mon. Ang. 2. par. fol. 322. Selda also signifies a Wood of Sallows, Willows and Withyes, &c. on *La. fol. 4.**

Selson of Land, *Selio terra*, May be derived from the French *Seillon*; ground rising between two Furrows, in Latine *Fora*, in English a ridge of Land, and contains no certain quantity, but sometimes more, and sometimes less: Therefore *Crampton* in his *Jurisdiction of Courts*, *fol. 221.* saith, That a *Selson of Land* cannot be demanded, because it is a thing uncertain: It may not without some probability be deduced from the Saxon *Sul in fild, in wattrum*; whence also the French *Seillon* is derived, *to Plough*.

Seme, *Summa*, A Horse-load; A *seme* of Corn is eight Bushels. *Francis Prædictor. (Hetero.) pro 2. furnungis vocat. Semes, de feudi percipiend. quidquid de bosco de Heywood pro termino 20. annorum, 3 H. 5. part. 2. m. 18. See Sumage --- Habebant etiam duas summas framenti, pro pestellis, cum voluerint facere. Mon. Ang. 2. par. fol. 935. Et sunt quieti de summagio de Mardro, de Teunigge, de Wapentake, de Anglin Viduamitum, Ibid. fol. 221.*

Sensal, *Anno 2 Rich. 2. cap. 1.* Seems to be fine Linnen; but *sensal* is a kind of physical wood brought from the Indies.

Senege, There goes out yearly in Procege and Senege 33 s. 6 d. Perhaps *seage* may be Money paid for Synodals, as *Prozege* for Proxies or Procurations.

Seneschal, *Seneschallus*, Is a French word, but borrowed from Germany, being derived from *sein*, a House or Place, and *schale*, servus; We English it a Steward, and so doth *ca. on Lit. fol. 61.*

As the high *Seneschal* or Steward of England, *Stamf. Pl. Cor. fol. 152.* High *Seneschal* or Steward, and South *Seneschal* or Under-Steward, *Kitchin, fol. 83.* is understood of the Stewards or Under-Stewards of Courts; *Seneschal de l'Hostell de Roy*, Steward of the King's Household, *Cramp. Jurisd. fol. 102.* See 25 Ed. 3. stat. 5. cap. 21. In Purificatione Beate Mariæ, *facti filius Regis Anglorum Parisiis & servi*

vit. Regi Francorum ad mensam ut Seneschallus Francie, Rob. de Monte in Anno 1170. pag. 649.

**Senescallo et Marehallo quod non te-
neant placita de libero tenemento**, &c. Is a Writ directed to the Steward or Mar-
shal of England, inhibiting them to take Cogni-
sance of any Action in their Court that concerns
either Free-hold, Debt or Covenant, *Reg. Orig.*
fol. 185. 191.

Senie alias Sene, Sena, Is a Medicinal
Herb, the use and vertues whereof you may read
in *Gerard's Herbal*, lib. 3. cap. 8. This is mention-
ed among other Drugs and Spices to be garbled,
Anno 1 Jac. cap. 19.

Seneucia, Widowhood, If a Widow,
having Dower after the Death of her Husband
shall marry *vel filium, vel filiam* in Seneucia peperit,
she shall forfeit and lose her Dower in what place
soever, in *Kent Tenen. in Gavelkind*, Plac. Trin.
17 E. 3.

Separation, Separatio, Is the living asun-
der of Man and Wife. See *Mulier*.

Septum, An Inclosure, a Close, and is
so called, because it is encompassed *cum sepe &
fossa*, with a Hedge and a Ditch, or at least with
a Hedge.

Septuagesima, Mentioned *Westm. 1. cap.*
51. Is alwayes the third Sunday before *Quadra-
gesima* exclusive, from which, until the *Octaves* af-
ter Easter, the solemnizing of Marriage is forbid-
den by the Canon Law. It is called *Septuagesima*,
as being above seventy dayes before Easter, as
Sexagesima and *Quinquagesima*, because the first is ac-
counted sixty, the latter fifty dayes before the
same Feast, & are dayes appointed by the Church
to acts of Penance and Mortification, and are pre-
parative to the devotion of *Lent* then approaching.
See *Quinquagesima*.

Sepulchre, Sepulchrum, Is the place where
any dead Body lies interred; but a Monument
is a place where something is set up for the Me-
morial of the deceased, though the Corps lye
not there.

Sequatur sub suo periculo, Is a Writ
that lies where a Summons *ad Watrandendum* is
awarded, and the Sheriff returns, That he hath
nothing whereby he may be summoned; then
goes out an *Alias* and *Pluries*; and if he come not at
the *Pluries*, then goes out this Writ, *Old Nat. Brev.*
fol. 163. *Co. on Lit. fol. 101.*

Sequela Curie, Suit of Court, — *Et
quod sint liberi a Sequela Curie*, *Mon. Ang. 2. par.*
fol. 253.

Sequester, Is a term used in the Civil
Law for renouncing, as when a Widow comes
into Court, and disclaims to have any thing to do,
or to intermeddle with her Husband's Estate who
is deceased; she is said to *Sequester*.

Sequestration, Sequestratio, Is a separating
of a thing in controversy from the possession of
both those that contend for it: And it is of two
kinds, *Voluntary* or *Necessary*; *Voluntary*, is that which
is done by consent of each Party: *Necessary*, is
that which the Judge doth of his Authority,
whether the Parties will or not. It is used also
for the act of the Ordinary, disposing the Goods

and Chattels of one deceased, whose Estate no
man will meddle with, *Dyer, fol. 232. num. 5. &
fol. 256. num. 8. & fol. 260. num. 42. & fol. 271.
num. 26.* As also for the gathering the Fruits of a
Benefice void, to the use of the next Incumbent,
28 H. 8. cap. 11. Fortescue, cap. 50. and in divers
other Cases.

Sequestro habendo, Is a Writ Judicial,
for the dissolving a Sequestration of the Fruits of
a Benefice made by a Bishop at the King's Com-
mand, thereby to compel the Parson to appear at
the Suit of another; for the Parson upon his ap-
pearance may have this Writ for the discharge of
the Sequestration, *Reg. Judic. fol. 36.*

Sergeant, Serviens, Cometh of the French
Sergeant, i. *satelles*, a Man of the Guard, so called,
because he was *sape accitus ad res necessarias in exer-
citu peragendas*, so *Calepine*. But *Skene de verbor.*
Signif. verb. *Sergeant*, saith, It is, *vox composita
de ferrer, quod est includere & Gent, quod pro gente,
plebe vel populo usurpatur.* This word is diversly
used in our Law, and applied to sundry Offices
and Callings. First, a *Sergeant at Law* (or of the
Coyf) is the highest degree taken in that Pro-
fession, as that of a Doctor is in the Civil Law.
And to these, as Men best learned, and most ex-
perienced of all others, one Court is set apart
for them to plead in by themselves, which is the
Court of Common-Pleas, where the Common
Law of England is most strictly observed; and
though they have this Court to themselves, yet
are they not restrained from pleading in any o-
ther Courts, where the Judges (who cannot
have that Honor, till they have taken the degree
of *Sergeant at Law*), call them *Brothers*, and hear
them with great respect next to the King's At-
torney and Solicitor-General. These are made
by the King's Mandate, or Writ, directed un-
to them, commanding them, upon a great pe-
nalty, to take upon them that degree by a day
certain therein assigned, *Dyer, fol. 72. num. 1. See
Count.* And of these one is the King's *Sergeant*, be-
ing chosen commonly out of the rest, in respect of
his great Learning, to plead for him in all Cau-
ses, especially in those of Treason, *Stamf. Pl. Cor.
lib. 3. cap. 1.* And of these there may be more,
if it please the King. This, in other Kingdoms,
is called *Advocatus Regius*, *Cassan. de consuet. Bur-
gund*, pag. 850. With what Solemnity these *Ser-
geants* be created, read *Fortescue, cap. 50. Cro. 3.
par. fol. 1. and 2. Inst. fol. 213.* These were called
anciently *Servientes Narratores*. *Et prædictus Tho-
mas le Mareball dicit quod ipse est communis Ser-
viens Narrator coram Justic. & alibi ubi melius ad
hoc conduci poterit, &c. Trin. 25 E. 1. coram Rege
Oxon. 22.* This word *Sergeant* is used in *Britton*
for an Officer belonging to the County, and the
same which *Bracton* in his Fifth Book, cap. 4. num. 2.
calls *Servientem Hundredi*, and is in truth no o-
ther than the Bayliff of the Hundred; And the
Steward of a Mannor is called *Serviens Mane-
rii*, *Coke, vol. 4. Copyhold Cases, fol. 21. a.* Then the
next is a *Sergeant at Arms*, *Serviens ad Arma*, whose
Office is to attend the Person of the King, *Anno
7 H. 7. cap. 3.* to Arrest Traytors, or Persons of
Quality offending, and to attend the Lord High
Steward of England sitting in Judgment upon any
Traytor, and such like, *Pl. Cor. lib. 3. cap. 1.* Of
these by the Statute 13 Rich. 2. cap. 6. There may
not

not be above thirty in the Realm: Two of these, by the King's Allowance, attend on the two Houses of Parliament; The Office of him in the House of Commons is the keeping of the Doors, and the Execution of such Commands especially touching the Apprehension of any Offendor, as that House shall enjoyn him, *Crompt. Jurisd. fol. 9.* Another of them attends on the Lord Chancellor, or Lord Keeper, in the Chancery; and one on the Lord High Treasurer of England: One attendeth upon the Lord President of Wales, and another upon the Lord President of the North. Another sort of Sergeants are chief Officers, who execute several Functions in the King's Household, of which you may read many in the Statute 33 H. 8. cap. 12. There is also a more inferior kind of Sergeants of the Mace, whereof there is a Troop in the City of London, and other Corporate Towns, that attend the Mayor, or other chief Officer, both for menial Attendance, and chiefly for Matters of Justice. These are called *Servientes ad Clavam*, *New Book of Entries*, verb. *Scire facias in Mainpernors*, cap. 3: fol. 338.

Sergeants of Peace, — *Et etiam habere ibidem (i. Dunham) sex servientes qui vocantur, Sergeants of Peace qui servient Cur. Maneris & facient Attach. & executiones omnium Placitorum & querelarum in dicta Curia Placitorum, &c.* Pl. de Quo War-ranto apud Cestriam, 31 Ed. 3.

Serjeanty, Serjeantia, Signifies in Law a Service that cannot be due to any Lord from his Tenant, but to the King only; and this is either Grand or Petit: The first is, where one holds Land of the King by Service, which he ought to do in his own person. *Petit serjeanty* is, where a man holds Land of the King, to yield him yearly some small thing towards his Wars, of which read *Bracton*, lib. 2. cap. 16. & 37. & *Britton*, cap. 66. num. 1, 2. *Inter feodalia servitia summum est & illustrissimum, quod nec Patronum aliquem agnoscit prater Regem*, sayes the learned *Spelman*: And *Camden*, tit. *Sus-folk*, speaks of *Baldwin le Pettour qui tenuit terras in Henningston in Com. Suffol. per serjeantiam*; pro qua debuit facere die natali Domini singulis annis coram Domino Rege Anglia, Saltum, Suffum & Pettum, alias unum saltum, unum suffiatum, & unum Bombulum. And *Sir Richard Rockefly* held Lands at *Seton* by *Serjeanty*, to be *Vautrarius Regis*, The King's Forefootman when he went into *Gascoigne* *Donec perusufuit pari solutarum precii 4 d.* until he had worn out a pair of Shoes of four pence price. This Service being to be performed when the King went to *Gascoigne* to make War is *Knights-service*, Co. on *Litt. fol. 69.* See the Stat. 12 Car. 2. cap. 24. whereby all Tenures, &c. are turned into free and common *Socage*; but the Honorary Services of *Grand Serjeanty* are therein excepted. See *Skene de herbor. Signif.*

Servage, Anno 1 R. 2. cap. 26. See *Service*.

Service, Servitium, Is that Service which the Tenant, by reason of his Fee, oweth unto his Lord. *Hoteman* thus defines it, *Servitium est munus obsequii clientelaris*, De verbis Feudal. It is sometime called *Servage*, as 1 R. 2. cap. 6. Our ancient Law-Books make many Divisions of it, as *Bract. lib. 2. cap. 16.* And *Britton*, cap. 66. into Personal and Real; also into Military and Base,

and *Bracton*, *ubi supra*, num. 7. into intrinsic and extrinsic, *servitium intrinsicum* is due to the Capital Lord of the Mannor: *Forinsecum* is that which is due to the King, and not to the Capital Lord. *Service* is also divided into *Frank and Base*, the one termed *liberum servitium*, the other *Villenagium*. It is also divided into continual or annual, and casual or accidental; the former is the feisin of Rent, the other feisin of Relief, Co. 4. Rep. fol. 9. *Bevill's Case*. See *Copp. hold.* See *Socage*. *Thomas Leigh Esq.* at the Coronation of King Charles the Second, brought up to the King's Table a Malle of Potage called *Dillogrou*, which Service had been adjudged him by the Court of *Claims* in right of the Mannor of *Addington* in *Surrey*, whereupon the Lord High Chamberlain presented him to the King, who accepted the service, and afterwards Knighted him.

Servientibus, Are certain Writs touching Servants and their Masters, violating the Statutes made against their Abuses, which see in *Reg. Orig. fol. 189, 190, 191.*

Service secular, Anno 1 E. 4. cap. 1. Is Wordly service, contrary to Spiritual and Ecclesiastical.

Servitium ferrandi, The service of Shooing Horses. See *Palfrey*.

Servitium acquietandis, Is a Writ Judicial, that lies for one distrained for Services to F, who owes and performs to R. for the acquital of such services, *Reg. Judic. fol. 27. & 36.*

Servitors of Bills, Are such Servants or Messengers of the Marshal belonging to the King's Bench, as were sent abroad with Bills or Writs to summon Men to that Court; they are now more ordinarily called *Distainers*, Anno 2. H. 4. cap. 23.

Session of Parliament, The passing any Bills, by giving the *Royal Assent* thereto, doth not make a Session; but the Session of Parliament continues till it be prorogued or dissolved. See 4. par. *Inst. fol. 27.* *Sessio Parliamenti*, is the sitting of the Parliament.

Sessions, Sessiones, Is a sitting of Justices in Court upon Commission, as the Sessions of *Oyer and Terminer*, Pl. Cor. fol. 67. *Quarter-Sessions*, otherwise called the *General-Sessions*, 5 Eliz. 4. or *Open-Sessions*, *ibid.* Opposite, whereto are *especial*, otherwise called *Privy Sessions*, which are procured upon some special occasion, for the more speedy dispatch of Justice in some, *Crompt. Just. of Peace*, fol. 110. What things be inquirable in Sessions, see *ibid.* fol. 109. *Petit-Sessions* or *Statute-Sessions* are kept by the High Constable of every Hundred for the placing of Servants; 5 Eliz. 4. See *Statute-Sessions*.

Sesleur, 25 E. 3. 6. Seems to signifie the assessing or rating of Wages.

Senuetum, A Land full of Brambles.

Set Clothes, Are mentioned in the Statute made Anno 27 H. 8. cap. 13. which see.

Setwell, Valeriana, Is a Medicinal Herb; the nature and divers kinds whereof you have in *Gerard's Herbal*, lib. 2. cap. 424. The root of

this is mentioned among Drugs to be garbled,
1 Jac. 19.

Severance, Is the singling or severing of Two, or more, that are joyned in one Writ: For example, If two joyn in a Writ *de libertate probanda*, and the one afterward be Non-suit, here severance is permitted; so that notwithstanding the Non-suit of the one, the other may severally proceed, F.N.B. fol. 78. and Bro. tit. *Severance and summons*, fol. 238. There is also severance of the Tenants in an Affise, when as one or two, or more Disseisors appear upon the Writ, and not the other, *New Book of Entries*, fol. 81. And severance in Attaints, *Ibid.* fol. 95. And severance in Debt, where two, or more, Executors are named Plaintiffs, and the one refuses to prosecute, *Ibid.* fol. 220. Severance of Corn, is the cutting and carrying it off from the Ground, and sometimes the setting out the Tythe from the rest of the Corn is called Severance. See Cro. Rep. 2 par. fol. 225. There is also severance in *Quare Impedit*, Co. Rep. 5. fol. 97.

Severall taylor, *Tallium separatum*, Is that whereby Land is given and entayled severally to Two: For example, Land is given to two Men and their Wives, and to the Heirs of their Bodies begotten, the Donors have joyned Estate for their two Lives, and yet they have severall Inheritance, because the Issue of the one shall have his moyety, and the Issue of the other the other moyety.

Severall tenancy, *Tenura separata*, Is a Plea or Exception taken to a Writ that is laid against Two as joyned, which are severall, *Brake*, tit. *Severall tenancy*, fol. 273.

Severally woven, That is, well and honestly woven, Anno 35 Eliz. cap. 19.

Sewer, *Severa* & *severa*, *Est fossa in locis palustribus ducta ad aquas ejiciendas*, &c. A Passage or Gutter to carry water into the Sea or a River, 6 H. 6. cap. 5. and 12 Car. 2. cap. 6. And Commissioners of Sewers are such as, by Authority under the Great Seal, see Drayns and Ditches well kept and maintained in marshy and fenny Countries, for the better conveyance of the Water into the Sea, and preserving Grasse upon the Land for the feeding of Cattel. See the Statutes 15 Car. 2. cap. 17. and 17 Car. 2. cap. 11. touching the drayning the great Level in the Fens called Bedford Level, and the Authority of the Governor, Bayliff, &c. as Commissioners of Sewers.

Sevagesima. See *Septuagesima*.

Sextary, *Sextarium*, Was an ancient Measure, containing about our Pint and a half (according to our Latine Dictionary). The Town of Leicester paid among other things to the King yearly twenty five Measures called *Sextaries* of Honey, as we read in *Doomsday*. And in *Clauſ. 4 B. 3. m. 26*. We find *Tresdecem sextarios vini*. Et *num sextarium salis apud Wainſlete*, Mon. Ang. 2. par. fol. 849. A *sextary* of Ale contained sixteen *Lagenas*. See *Tolceſter*.

Shacke, Is a Custom in Norfolk to have Common for Hogs from the end of Harvest till Seed-time, in all Mens Grounds without contradiction, Co. 7. Rep. fol. 5. Corbet's Case: And in that County, To go at *shacke*, is as much as to go at large.

Shanke, See *Furro*.

Shares. See *Flotzon*.

Sharping Corn, Is a customary Gift of Corn, which, at every Christmas, the Farmers in some parts of England give to their Smith, for sharpening their Plough-Irons, Harrow-rines, and such like, and exceeds not half a Bushel for a Plough-Land.

Sherbet, Is a compound Drink, late brought into England from Turke and Persia, and is made of joyce of Lemons, Sugar, and other Ingredients, &c. Sherbet in the Persian-Tongue signifies Pleasant Liquor, 15 Car. 3. cap. 11.

Shermans craft, Is an Art used at Norwich; the Artificers whereof do there as well Worsteads, Stamins, and Fustians, as all other woollen-Cloth. It is mentioned Anno 19 H. 7. cap. 17.

Shewing, Is to be quit of Attachments in any Court, and before whomsoever in Plaints shewed, and not avowed. See *Seavage*.

Shilling, (In Saxon reilling) among our English Saxons consisted but of five pence, Si in capillis sit vulnus longitudinis unius uncie V. denariis i. uno solido componatur, Leg. H. 1. cap. 39.

Ship-money, Was an ancient Imposition that had lien Dormant many years, and was charged upon the Ports, Towns, Cities, Boroughs and Counties of this Realm; which was revived by King Charles the first in 1635. and 1636. and by Stat. 17 Car. 1. cap. 14. was declared to be contrary to the Laws and Statutes of this Realm, &c.

Shipper, Is a Dutch word signifying the Master of a Ship, Anno 1 Jac. Sess. 1. cap. 33. We commonly say Skipper, and use it for any common Seaman.

Shire, *Comitatus*, Derived from the Saxon *Seyran*, i. *partiri*, is well known to be a portion of Land called a County; Who first divided this Land into Shires, see in Camden's Brit. pag. 102. Of which there are in England forty, and in Wales twelve, in all fifty two. In *Privilegiarum chartis* (says Spelman) ubi conceditur quietum esse a shiris, intelligendum est de immunitate, qua quis eximitur a secta vel clientela curis Vice-comitum (quas etiam shiras vocant) prestanda vel perscienda. The Assises of the Shire was by the Saxons of old called *Sixte gemot*.

Shireve, Or as vulgarly Sheriff, *Viccomes*, is the chief Officer of the King in his Shire or County. Camden in his Brit. pag. 104. describes his Office in this manner,

Singulis vero annis, nobilis aliquis ex incolis preſtitur, quem Vicecomitem, quasi vicariam Comitatus, & nostra Lingua Shyreſe, i. Comitatus prepoſitum vocamus; qui etiam Comitatus vel Provincie Quaſtor recte dici poteſt: Ejus enim eſt publicas provincia ſue pecunias conquirere, multas irrogatas, vel pignoribus ablatis colligere & aerario inferre, Judicibus preſto adeſſe & eorum mandata exequi, duodecem viros cogere qui in cauſis de factis cognoscant & ad Judices referant (Judices enim apud nos juris ſolum, non facti ſunt Judices) condemnatos ad ſupplicium ducere, & in minoribus litibus cognoscere, in maioribus autem Jus dicunt Juſticiarii, quos itinerantes ad aſſaſ vocant, qui quatuordecim hoſ comitatus, bis adeunt, ut de cauſis cognos-
cant

cant & carceratis sententiam ferant: Henricus Secundus hos itinerantes instituit, vel potius restituit. *lib. (ut inquit Mat. Par.) consilio filii sui & episcoporum constituit Justitiarios, per sex partes Regni, in qualibet parte tres, qui jurarent quod cuilibet jus suum conservarent illisum.*

Of the Antiquity and Authority of this Officer, read *Co. Rep. lib. 4. Milton's Case*; and *Spelman's Glossary*, verb. *Viccomes*. The Sheriff was heretofore chosen in the County Court by the Suffrages of the People, as Knights of the Shire for Parliament yet are, but now he is nominated by the King. See *Fortescue*, cap. 24. fol. 53. Et dicitur *Viccomes quod vicem Comitis supplet*, &c. *Niger lib. Scaccari*. The form of his Oath, see in *Reg. Orig.* fol. 331. Of this read also *Skene de verb. Signif.* voce *Shyreve*, where he at large describes of the Sheriff in *Scotland*, in a Discourse worth the reading.

Shirif-tooth, — *Per Shirif-tooth, Johannes Stanley Ar. clamat habere de quolibet tempore infra feodum de Aldford unum denarium & quadrantem per annum, exceptis Dominicis terris propriis & terra in feodo & Manerio predicto Maner. & Hundred. de Macclesfield, Rot. Plac. in Itin. apud Cestriam, 14 H. 7.*

Sheriffe of Winchester and Essex, Is the extent of a Sheriffs Authority, 21 R. 2. cap. 10, 11. *Sheriffswicks, 13 Eliz. cap. 22.*

Sheriffalty, The time of a mans being Sheriff, 14 Car. 2. cap. 21.

Shire-sterke, Seems to be the Under-sheriff, Anno 11 H. 7. cap. 15. It is sometimes taken for a Clerk in the County Court, that is Deputy to the Under-sheriff. See *Co. 4. Rep. Mitton's Case*.

Shire-mote. See *Shire* and *Tiurn*.

Shop, Shopa, Omnibus, &c. Johannes Horeseret de Hereford *Bochour salutem; Noveritis me prefatum Johannem dedisse, &c. Rogero Smith de Bromeyard, unam shopam cum pertin. suis in Bromeyard predictis. situate in le Market place ibidem, &c. Dat. 27. Feb. 9 Ed. 4. See Seld.*

Shorling and Morling, Seem to be words to distinguish Fells of Sheep; *shorling* signifying the Fells after the Fleeces are shorn off, and *Morling* alias *Morling*, the Fells shorn off after they be killed, or die alone, 3 E. 4. cap. 1. 4 E. 4. 3. 12 E. 4. 5. and 14 E. 4. 3. See *Morling* and *Morling*.

Shot, From the Saxon *Scam*, signifying *Pecuniam aut Velligal*. See *Lambert's Explication of Saxon words*, verb. *Primitia*. It is still used among Alehouse-keepers and Vinters; as to pay the shot, is to pay the Money due for the reckoning.

Sich, Siehetum & Siketum, A little current of Water that uses to be dry in the Summer, *Inter duos sikettos, &c. Mon. Ang. 2. par. fol. 426.* Also a Water-furrow or Gutter.

Sicut alias, Is a second Writ sent out, where the first was not executed, *Co. lib. 4. fol. 85.* It takes name from those words in it. As for example, *Carolus Secundus Dei Gratia, &c. Vicecom. Midd. salutem. Præcipimus tibi (sicut alias præcepimus) quod non omittas, &c.* and so as in the

Capias Lambert in his Treatise of Process, in the end of his *Eirenarcha*.

Sidemen alias Questmen, Be those that are yearly chosen, according to the Custom of every Parish, to assist the Church-wardens in the inquiry and presenting such Offenders to the Ordinary, as are punishable in the Court-Christian.

Sigillum, — *Notum sit omnibus Christianis quod ego Johannes de Grestey non habeo potestatem sigillari nec, per unum annum integrum ultra prædictum, jam notifico, &c. quod R. de Sigillo meo contrahat, &c. In causa rei testimonium Johannis Decanus de Rypingdon appositus, &c. 9. Decembris 1345. 18 Ric. 2. See Seal and Fobellion.*

Signtifrabile, Is a Writ de Excommunicatione capiendo, which issueth out of the Chancery upon a Certificate given by the Ordinary of a man that stands obstinately Excommunicate, by the space of forty days, for the laying him up in Prison without Bail or Mainprize, until he submit himself to the Authority of the Church. And it is so called, because the word *Signtifrabile* is an Emphatical word in the Writ; there is also another Writ in the Register, fol. 7. directed to the Justices of the Bench, commanding them to say any Suit depending between such and such, by reason of any Excommunication alleged against the Plaintiff, because the Sentence of the Ordinary that did Excommunicate him, is appealed from, and the Appeal yet depends undecided. See *F. N. B. De excommunicato capiendo*, fol. 62. 66. where you may find Writs of this Name in other Cases.

Signet, Is one of the King's Seals, wherewith his private Letters are sealed, and is always in the custody of the King's Secretaries: And there are four Clerks of the Signet-office alwayes attending, 2. Inst. fol. 956.

Silk thrower and Thowster, Anno 14 Car. 2. cap. 15. Is a Trade or Mystery that winds, twists and spins, or throws Silk, so fitting it for use, who are incorporated by the said Act; wherein there is mention also of *Silkwinders* and *Dooblers*, which are members of the same Trade. See 20 Car. 2. cap. 6.

Silva cedua. See *Sylva cedua*.

Simnell, Siminellus, From the Latine *simila*, which signifies the finest part of the flower; *Panis similagenus*, Simnel-Bread. It is mentioned *Affia panis* (and is still in use specially in *Leat*) Bread made into a Simnel shall weigh two shillings less than *Wassell-bread*, Stat. 51 H. 3. See *Cocket*.

Simony, Simonia, Venditio rei sacra, so called from *Simon Magus*: It was agreed by all the Justices, Trin. 8. Jac. That if the Patron present any person to a Benefice with Cure, for Money, that such Presentation, &c. is void, though the Presentee were not privy to it, and the Statute gives the Presentation to the King, *Co. 12. Rep. fol. 74.* Simony may be by compact between Strangers, without the privy of the Incumbent or Patron, *Cro. 1. par. fol. 331. Banderoke's Case, Hob. Rep. fol. 165. Noy's Rep. fol. 22. Pasfall's Case*, and 3. Inst. fol. 153.

Simpler, — *Carta simplex*, A Deed-Poll or single Deed.

Sine assensu capitali, Is a Writ that lies where a Dean, Bishop, Prebendary, Abbot, Prior or Master of an Hospital, alien the Land holden in the right of his House, without the consent of the Chapter, Covent or Fraternity; In which Case his Successor shall have this Writ, *F. N. B. fol. 195.*

Sine die, Without day: When Judgment is given against the Plaintiff, he is said to be in misericordia pro falso clamore suo; But when for the Defendant, then tis said, *Eat inde sine die.*

Si non omnes, Is a Writ of Association, whereby, if all in Commission cannot meet at the day assigned, it is allowed. That two, or more, of them may finish the business. See Association, and *F. N. B. fol. 185. & 111. and Reg. Orig. fol. 202. 206, &c.*

Si Recognoscant, Is a Writ that lies for a Creditor, against his Debtor, for Money numbered, that hath before the Sheriff in the County Court acknowledged himself to owe his Creditor such a sum, received of him in pecunia numerata. The form of which Writ is this, --- *Rex Vicecomiti salutem. Præc. tibi quod si A. recognoscit se debere B. 40. solid. sine ulteriori dilatione, tunc ipsum distringas ad prædictum debitum eidem B. sine dilatione reddendum. Teste, &c. Old Nat. Brev. fol. 68.*

Site or Scite, Situs, The standing of any Place, the situation of a Capital House or Messuage, a Territory, or part of a Country, as the site of the late dissolved Monastery of, &c. i. the place where it stood. The word is mentioned in the Statute 32 Hen. 8. cap. 20. and 22 Car. 2. cap. 11. and is there written Scite, --- *De dicto loco in quo domus sua sita est, Mon. Ang. 2. par. fol. 278.*

Sithundman, A Saxon word, *Et custos Paganus interpretatur*, Lamb. Explic. verb. pag. 5. And was such a one as had the Office to lead the Men of a Town or Parish: *E. clare nobilium erat, saith Somner.*

Skaw, Is a word mentioned in the Statute made 4 E. 4. cap. 1.

Skybinage, Is a proper Name, signifying the Precincts of Calais, 27 H. 6. cap. 2.

Sluse, Exclusa, Is a frame to keep or let water out of a Ground.

Smalt, Is that which Painters make blue Colour, Anno 21 Jac. cap. 3. and Pat. 16. Feb. 16 Jac. in Italian Smalto.

Smoke-silver, *Tenementum Newstede cum pertin. &c. in villa de Staplehurst in Com. Cant. tenetur de Manerio de Eastgreenwich per fidelitatem tantum in libro focagio*, Per Pat. Dat. 3. Feb. 4 Ed. 6. And by the payment of Smoke-silver to the Sheriff yearly the sum of Six pence. Notes for Lord Wootton's Office, 1628. There is Smoke-silver and Smoke-peny paid to the Ministers of divers Parishes, and thought to be paid in lieu of Tythe-wood; or it may, as in many places at this day, be a continued payment of the Remeſcot or Peterpence. See Chimney-money.

Soc, *Soca*, According to *Minsheu*, is a word signifying a power or liberty of Jurisdiction; whence our Law-Latine word *Soca*, for a Seigniorie enfranchised by the King, with liberty of hold-

ing a Court of his Sockmen or Socagers, i. his Tenants, whose Tenure is hence called *Socage*. *Skene de verbor.* Interp. says, *Soc* is called *Sella de hominibus suis*, in curia, secundum consuetudinem Regni. See more there: And *Bracton*, lib. 3. tract. 2. cap. 8. mentions divers Liberties, as *Soc and Soc*, Toll and Thean, *Infangthesf & vifangthesf*, & isti qui habent talem libertatem, possunt judicare in curia sua cum qui inventus fuerit infra libertatem suam, seisisus de aliquo latrocinio manifesto. The same interpretation *Lambard* gives it, in his translation of the Saxon Laws: For among the rest in those of King Ina (*Leg. 24.*) *Be Cypic rocnun*, is rendered *De immunitate sani*; And in the Laws of Henry the First, it is said, *Nullus socnam habet impune peccandi*, that is, none hath liberty of sinning without punishment. And in the same sense it is used in *Doomsday*, for in *Esex*, under the Title of *Terra Rogeri Bigoti* it is thus recorded, *Wifunam tenet Hugo de Holsdene quod tenentur iv. liberi homines T. R. E. qui fuerant de soca Algari, &c.*

Socage or Socage, Socagium, May be derived from the French *Soc*, that is, *Vomer* a Coulter or Plowshare, and is a Tenure of Lands by or for certain inferior Services of Husbandry to be performed to the Lord of the Fee. See *Institutes of the Common-Law*, 31. *Bracton*, lib. 2. cap. 35. num. 1. describes it thus, *Dici poterit socagium a socco & inde tenentes qui tenent in soccagio socmanni dici poterunt*, eo quod deputati sunt, ut videtur, tantummodo ad culturam & quorum custodia & maritagia ad propinquiores parentes jure sanguinis pertinebit. Et si aliquando inde factio capiatur homagium, quod plures contingit, non tamen habebit propter hoc Dominus capitalis custodiam & maritag. Quia non semper sequitur homagium, licet aliquando sequatur. *Skene de verbor.* Signif. says, *Socage* is a Tenure of Lands, when a Man is infeoffed freely, without any Service, Ward, Relief or Marriage, and pays to his Lord such Duty as is called *Petit Sergeanty*, &c. There is free socage and base socage, otherwise call'd Villenage. --- And, according to *Bracton*, *Socagium liberum est*, ubi fit servitium in denariis Dominis capitalibus, & nihil inde omnino datur ad scutum & servitium Regis. This free socage is also called *Common socage*, Anno 37 H. 8. cap. 20. Other Divisions there are in our Books, viz. *Bract. lib. 2. cap. 8. num. 3. Old Nat. Brev. fol. 94. and others.* But by the Statute 12 Car. 2. cap. 24. All Tenures shall be adjudged and taken to be turned into free and common socage.

Socmans alias Sokemans, Socmanni, Are such Tenants as hold their Lands and Tenements by socage tenure, of which there are several kinds, viz. *Sokeman's* of Frank-tenure, *Kitchin*, fol. 81. *Sokeman's* of Base-tenure, *Ibid.* and *Sokemans* of ancient Demesne, which last seem most properly to be called *Socmans*, *F. N. B. fol. 14. Britton*, cap. 66. num. 2. The word *Sokeman* is found in the Statute of Wards and Relief, 28 E. 1.

Socna, In Saxon *Socne*, a Priviledge, or Liberty, and Franchise, --- *Volo, ut ipsi sint eorum sacæ & socnæ; Theolonii etiam & Teami (privilegiarum, scilicet & jurium sic appellatarum) digni infra tempus & extra tempus, &c. Charta Canuti Regis in Hist. Eccles. Catch. S. Pauli, fol. 189. see Soc.*

Socome,

Socome, Signifies a Custom of grinding at the Lord's Mill: And there is *Bond-socome*, where the Tenants are bound to it, and *Love-socome*, where they do it freely out of love to their Lord.

Soker, Anno 32 H. 8. cap. 15. & cap. 28. Significat libertatem Curie tenentium quam socam appellamus, *Fleta*, lib. 1. cap. 47. sect. *Soke*. Per *Soke Will. Stanley in Manerio suo de Knottsford* clamat cognitionem placitorum debiti, transgressionis, conventionis & detentionis infra summam 40. sol. Pl. ltn. apud Cestr. 14 H. 7. *Soker*, id est, aver fraunch Court de ses homes M.S. See *Soc*.

Soken, *Soca*. See *Soc* and *Hamsoken*.

Soke-reeve, Seems to be the Lord's Rent-gatherer in the *sok* or *soken*; *Fleta* lib. 2. cap. 55.

Solda, It seems to be the same with *selda*, a Shop or Shed.

Sole-Tenant, *Solus tenens*, Is he or she that holds only in his or her own right, without any other joyned: For example, If a Man and Wife hold Land for their Lives, the Remainder to their Son; Here the Man dying, the Lord shall not have Heriot, because he dyeth not *sole* Tenant. See *Kitchin*, fol. 134.

Sollicitor, *Sollicitator*, Is a man employ'd to take care of, and follow Suits depending in Courts of Law or Equity; formerly allowed only to Nobility, whose menial Servants they were, but now too frequently used by others, to the Damage of the People, and the increase of Chancery and Maintenance.

Solet & debet. See *Debet & solet*.

Solidata terræ. See *farding-deal* of Land. *Solidata* also signifies the pay or stipend of a Souldier, *Et qui terram non habent & arma habere possunt, illuc veniant ad capiendum solidatas nostras*. Breve Regis Johannis Vicecomitibus Angliæ, Anno 1213.

Solinus terræ, In some places of *Doomsday Book* is said to contain two Plow-Lands, and sometimes less than half a one; for there it is said *Septem solini terræ sunt 17. Carucat*.

Soller or Solar, *Solarium*, A Chamber or Upper-Room; *Dedi-unam shopcam cum solarium super-edificato*, Ex Vet. Carta.

Solutione feodi militis Parlamenti, and **Solutione feodi Burgens Parlamenti**, Are Writs whereby Knights of the Shire and Burghesses may recover their allowance, if it be denied, Anno 35 Hen. 8. cap. 11.

Solvendo esse, Is a term of Art, signifying that a man hath wherewith to pay, or as we say, is a person solvent.

Summons alias Summons, *Summonitio*, Signifies in our Common Law as much as *Vocatio in jus*, or *Citatio* among the Civilians: And thence is our word *Sommer*, which in French is (*Semoneur*, i. *vocator*, *Monitor*. The *Customary* of Normandy for our *Summons* hath *Semonefe*, cap. 61. *Summons* of the Exchequer, 3 E. 1. 19. 10 E. 1. 9. How *Summons* is divided, and what circumstances it hath to be observed. See *Fleta*, lib. 6. cap. 6, 7.

Sontage, Was according to *Stow*, pag. 284. A Tax of forty shillings laid upon every Knights Fee: In some places the word is used for course Cloth, as bagging or Hops, or the like. See *Synstema Agriculturae*.

Sorcery, *Sortilegium*, Divination by Lots, which is Felony by 1 Jac. cap. 12. *Sortilegus*, quia utitur sortibus in cantationibus *Demonia*, 3. Inst. fol. 44. *Sorcery & devinal sont Members de Heresy*. *Mirror*. cap. 1. sect. 5. *Sortilegi sunt divinatores, vel isti qui sub nomine fidei Religionis per quasdam, quas sanctiorum vel Apostolorum vocant sortes vel divinationes, sententiam vel scientiam profitentur; sive divinatione, aut quarumcumque scripturarum inspectione futura promittunt*, *Vocab. utriusque juris*.

Sotyping Berries, 3 Jac. cap. 16. A sort of Cloth so called.

Sotbale, Mistaken without doubt for *Scotale*, yet in *Bracton*, lib. 3. tract. 1. cap. 1. it is written *Sotbale*, and he says, It is so called *Fistale*, and was a kind of Entertainment made by Bayliffs to those of their Hundred for gain, which the same *Bracton* says was taken away in the Reign of Henry the Third. See *Scotale*.

South Wiltcount, *Sub Vicecomes*, Is the Under Sheriff, *Crompt. Jar. fol. 5*.

Downe, Is a word corrupted from the French *Souvenu*, i. remembered; for the Stat. 4 Hen. 5. cap. 7. In the Original French hath *Des esireats nient souvenu*, and such *Esireats* and Casualties as are not to be remembered, run not in demand, that is, are not leviable: It is a word of Art used in the *Exchequer*, where *Esireats* that *downe* not, are such as the Sheriff by his industry cannot get, and *Esireats* that *downe* are such as he may gather, 4 Par. Inst. fol. 107.

Speaker of the Parliament, Is an Officer in that High Court, who is, as it were, the common mouth of the rest: And as that Honourable Assembly consists of two Houses, so there are two Speakers, the one termed the *Lord Speaker of the House of Peers*, and is most commonly the Lord Chancellor, or Lord Keeper of the Great Seal of England. The other (being a Member of the House of Commons) is called *The Speaker of the House of Commons*; both whose Duties you have particularly described in a Book entituled, *The Order and Usage of keeping the Parliament*. See *Parliament*.

Special matter in evidence. See *General Issue*, and *Bro. tit. General Issue and special Evidence*.

Specialitas, A Specialty is taken for a Bond, Bill, or such like Instrument. But it hath heretofore been taken for particular acquaintance, as appears Inter Pl. coram Rege apud Ebor. Mich. 1 E. 3. Rot. 123. *Presentatum fuit per Juratores—quod quidam Johannes de Pratis habuit quandam uxorem amabilem de cujus specialitate, Willielmus filius Henrici Molendinarii & similiter quidam alii malefactores fuerunt; ita quod predicti malefactores venerunt ad lectum ipsius Johannis ubi jacebat & ipsum traxerunt ab eadem & ipsum abinde duxerunt & tenuerunt dum predictus Willielmus concubuit cum ea*.

Spinsters, It is the addition usually given to all unmarried Women, from the Viscounts Daughter downward: Yet Sir *Edward Coke* says,

Generosa is a good addition for a Gentlewoman, and that if they be named *Spinster* in any Original Writ, Appeal or Inditement, they may abate and quash the same, 2. *Inst.* fol. 668. --- Pollard Miles & Judic. habuit 11. filios gladiis cinctos in tumultu suo & totidem filias suis depictas. Spelman in his *Aspilogia* says, --- *Antiquis temporibus ipse Reginae suis use sunt, unde hodie omnes famine Spinsters dicte sunt.*

Spiritualities of a Bishop, Spiritualia Episcopi, Are those Profits which he receives as a Bishop, not as a Baron of the Parliament, *Stamf. Pl. Cor.* fol. 132. Such are the Duties of his Visitation, his benefit growing from ordaining and instituting Priests, Prestation Money, that is, *subsidium charitativum*, which upon reasonable cause he may require of his Clergy, *Johannes Gregor. de Benefic.* cap. 6. num. 9. and the benefit of his Jurisdiction, *Joachimus Stephanus de Jurisd.* lib. 4. cap. 14. num. 14.

Spikenard, Spica Nardis, vel Nardus, Is a medicinal Herb, whereof read Gerard's Herbal, lib. 2. cap. 415. The Fruit or Ear of this (for it brings forth an Ear like *Lavender*) is a Drug gableable, by 1 Jac. cap. 19.

Spittle-house, Mentioned in the Act for Subsidies, 15 Car. 2. cap. 9. Is a corruption from Hospital, and signifies the same thing; or it may be taken from the *Teutonic* Spital, which denotes an Hospital or Almshouse.

Spoliation, Spoliatio, Is a Writ that lies for one Incumbent against another, in any case where the right of the Patronage cometh not in debate: As if a Parson be made a Bishop, and hath dispensation to keep his Rectory, and afterward the Patron present another to the Church, which is instituted and inducted. The Bishop shall have against this Incumbent a Writ of *spoliation* in *Court-Christians*, F. N. B. fol. 36. See *Benevolence*, and *Termes de la Ley*, hoc verbo.

Spullars of Yarn, Are Tyers of Yarn, to see if it be well spun, and fit for the Loom, Anno 1 Mar. Parl. 1. cap. 7.

Squalley, Anno 43 Eliz. cap. 10. See *Rewy*. It is a note of faultiness in the making of Cloth.

Squires. See *Esquires*.

Stablestand, Is one of the four Evidences or Presumptions whereby a man is convicted, to intend the stealing the King's Deer in the Forest, *Mannwood*, part 2. cap. 18. num. 9. The other three are *Dog-bay*, *Back-bear*, and *Bloody-hand*. This *Stablestand* is, when a man is found in *stabili statione*, at his standing in the Forest with a Cross-bow or Long-bow bent, ready to shoot at any Deer, or else standing close by a Tree with Greyhounds in a Leash, ready to slip.

Stagnarium, Vel potius Stannarium, a Tin-Mine, *Rex, &c. Concessimus Dominae Reginae matri nostrae cunum & Stagnarium Devon. ad se sustinendum*, Pat. Anno 1 Hen. 3.

Stagnes, Stagna, Ponds, Pools, or standing-waters, mentioned 5 Eliz. cap. 21.

Stadium, Is in *Doomsday Book* accounted for a furlong of Land, which is the eighth part of a Mile.

Stall-boat, A kind of Fishers Boat, Anno 27 Eliz. cap. 21.

Stalkers, A kind of fishing Nets, mentioned 13 Rich. 2. stat. 1. cap. 20. & 17 Rich. 2. cap. 9.

Stallage, Stallagium, May be derived from the Saxon *Stal. i. statio*; or the French *Estaller*, i. merces exponere: It signifies Money paid for pitching of Stalls in Fairs or Markets, or the right of doing it. See *Scavage*. This in Scotland is call'd *Stallenge*, according to *Skene de verbor.* Interpret. verb. *Stallangiatores*. Among the Romans it was termed *Silvaticum*, a *silva primo & minimo omnium pondere apud illam nationem*.

Standard. See *Estandard*.

Standell, Is a young store Oak-Tree, which may in time make Timber, twelve such are to be left standing in every Acre of Wood at the felling thereof, 35 H. 8. 17. and 13 Eliz. cap. 25.

Stannaries, Stannaria, Comes from the Latine *Stannum*; Tinne, and signifies the Mines and Works where this Metal is digged and purified; as in *Cornwall*, and other places: Of this read *Cambd. Brit.* pag. 119. The liberties of the *stannary-men* granted by Edward the First, before they were abridged by the Statute 50 E. 3. See in *Plewden's Case of Mines*, fol. 327. and Co. 12. Rep. fol. 9. And further, for the Liberties of the *Stannary-Courts*, see 17 Car. 1. cap. 15.

Staple, Stapellum, Signifies this or that Town or City, whither the Merchants of *England* were, by Act of Parliament, to carry their Wooll, Cloth, Lead and Tinne, and such like Staple Commodities of this Land, for the utterance of them by the great. The word may either be derived from the Saxon *Staple*, which signifies the stay or hold of any thing, according to *Lambart* in his *Duties of Constables*, num. 4. because the place is certain and settled; or else from the French *Etape*, i. *forum vinarium*, a Market or Staple for Wines; the chief Commodity of *France*. And accordingly in a French Book we find it written, --- *A Calais y avoit Estape de la laine*, &c. which is as much as to say, as the staple for Wools. You may read of many places appointed for this staple in our Statutes, according as the King thought fit to alter them, from the second year of Edward the Third, to the Fifth of Edward the Sixth, cap. 7. What Officers the staples had belonging unto them, you may see in Anno 27 E. 3. stat. 3. cap. 21. The staple Commodities of this Realm, are Wooll, Leather, Woollfells, Lead, Tin, Butter, Cheese, Cloth, &c. as appears by the Statute 14 Rich. 2. cap. 1. though some allow only the five first, see 4. *Inst.* fol. 238.

Star-Chamber, Camera stellata, otherwise called *Chamber des estoys*, was a Chamber at Westminster so called (as Sir Tho. Smith de Rep. Anglor. lib. 2. cap. 4. conjectures,) because at first the ceiling thereof was adorned with Images of gilded stars. And in the 25 of Hen. 8. cap. 1. It is written the *starred Chamber*. Henry the Seventh and Henry the Eighth ordained by two several Statutes, viz. 3 Hen. 7. cap. 1. and 21 Hen. 8. cap. 2. That the Chancellor assisted by others there named, should have Power to punish Routs, Riots, Forgeries, Maintenance, Embraceries, Perjuries, and such other Misdemeanors as were not sufficiently

sufficiently provided for by the Common Law, and for which the inferior Judges are not so proper to give Correction: And because that place was before set apart to the like Service, it was still used accordingly. Touching the Officers belonging to this Court, see *Cambd. pag. 112, 113*. But by the Statute 17 Car. 1. cap. 10. this Court commonly call'd *The Star-Chamber*, & all Jurisdiction, Power and Authority thereto belonging, are from and after the first of August, 1641. clearly and absolutely dissolved and determined, and so continues dissolved and determined to this day.

Starling. See *Sterling*.

Statute, Statutum, Has divers significations; as first, it signifies an Act of Parliament made by the King and the three Estates of the Realm, in which sense it is either general or special, *Co. lib. 4. Holland's Case, fol. 76*. Statute in another signification, is a short writing called a *Statute-Merchant*, or a *Statute-Staple*, which are in nature of Bonds, *Anno 5 H. 4. cap. 12.* and are called *Statutes*, because made according to the forms expressly provided by *Statutes*, which direct both before what persons, and in what manner they ought to be made. *West Symb. part 1 lib. 2. sect. 151.* where he defines a *Statute-Merchant* thus, A *Statute-Merchant* is a Bond acknowledged before one of the Clerks of the *Statutes Merchant* and Mayor, or chief Warden of the City of London, or two Merchants of the said City for that purpose assigned, or before the Mayor, chief Warden, or Master of other Cities or good Towns, or other sufficient men for that purpose appointed, sealed with the Seal of the Debtor and of the King, which is of two pieces; the greater is kept by the Mayor, chief Warden, &c. and the lesser piece thereof by the said Clerks: The form of which you may see in *Fleta, lib. 2. cap. 64. sect. 2.* thus, *Noverint universi me N. de tali Comitatu teneri P. in quadraginta marcis solvendis eidem ad festum Pasche. Anno Regni Regis, &c. & nisi fecero, concedo quod currant super me & heredem meos districtione & pena provisiva in statuto Domini Regis Editio apud Westm. Dat. London. tali die Anno supradicto.* The Fee for the Seal is, for *Statutes* acknowledged in Fairs for every pound a half-penny, and out of Fairs a farthing. The execution upon *Statute-Merchant* is, first to take the Body of the Debtor, if he be Lay, and can be found, if otherwise upon his Lands and Goods, and is founded on the Statute made 13 E. 1. stat. 4. See the *New Book of Entries*, verb. *Statute-Merchant*.

Statute-Staple is so called either properly or improperly. A *Statute-Staple* properly so called is a Bond of Record, acknowledged before the Mayor of the *Staple*, in the presence of one of the two Constables of the same *Staple*, for which Seal the Fee is of every pound, if the sum exceed not 100 li. an half-penny, and if it exceed 100 li. a farthing; and by virtue of such *Statute-Staple*, the Creditor may forthwith have execution of the Body, Lands and Goods of the Debtor: And this is founded upon the Statute 27 E. 3. cap. 9. A *Statute-Staple* improper is a Bond of Record, founded upon the Statute 23 H. 8. cap. 6. Of the nature of a proper *Statute-Staple* as to the force and execution of it, and acknowledged before one of the chief Justices, and in their absence, before the Mayor of the *Staple* and Recorder of London.

The forms of all these Bonds or Statutes, see in *West Symb. part 1. lib. 2. sect. 152, 153, 154, 155.*

Statutes are also vulgarly taken for the *Petit-Sessions*, which are yearly kept for the disposing of Servants in Service, by 5 Eliz. cap. 4. See *Recognition* and these *Statute-Sessions*, otherwise called *Petit-Sessions*, are a meeting in every Hundred of all the Shires in England, where by Custom they have been used, whereto the Constables and others, both Householders and Servants repair, for the debating of Difference between Masters and Servants, the rating of Servants Wages, and bestowing such people in Service as being fit to serve, either refuse to seek, or get Masters, *Anno 1 Eliz. cap. 4.*

Statuto Scapulae, Is a Writ that lies to take his Body to Prison, and seize upon his Lands and Goods, that hath forfeited a Bond called *Statute-Staple*, *Reg. Orig. fol. 151.*

Statutum de Laborariis, Is a Writ Judicial; for the apprehending of such Laborers as refuse to work according to the Statute, *Reg. Judic. fol. 27.*

Statuto Mercatorio, Is a Writ for the imprisoning of him that has forfeited a Bond called *Statute-Merchant*, until the Debt be satisfied, *Regist. Orig. fol. 146.* And of these there is one against Lay-persons, and another against Ecclesiastical, *Ibid. & 148.*

Stavisaker, Staphys agria vel herba Pedicularis, Is a medicinal Herb; the kinds and virtues whereof you have in *Gerard's Herbal*, lib. 1. cap. 130. The seed of this is mentioned among Drugs to be garbled, *Anno 1 Jac. cap. 19.*

Stemnefreoch, --- Necnon libertate multura sue in molendino ipsius Roberti, &c. quod sint temnefreoch and Cholfreoch, *Mon. Ang. 2. par. fol. 293.*

Stennery, Is used for the same with *Stannaries* in the Statute 4 H. 8. cap. 8. See *Stannaries*.

Strebrech alias Strebrech, Is the breaking, obstructing, or making less of a way, *Siquis viam frangat, concludendo, evertendo vel sedando*: It may be derived from the old English word *Stre*, i. *Via*, and *Brech*, i. *Fractio*; Hence probably to go astray, or as now we write *astray*, that is, to go out of the way.

Stanlaw, A Itony Hill, *Doomsday*.

Stealing, Is the fraudulent taking away of another mans Goods, with an intent to steal them against, or without, the will of him whose Goods they be. The Civil Law judges open Theft to be satisfied by the recompence of fourfold and privy theft, by the recompence of double; but the Law of England adjudges both those Offences to death, if the value of the thing stolen be above twelve pence.

Sterling, Sterlingum, Was and is the Epithete for Silver-money current within this Realm. And took name from this, that there was a pure Coyn stamped first in England by the *Easterlings*, or Merchants of East-Germany, by the Command of King John, and accordingly Roger Hoveden parte poster. suor. annal. fol. 377. writes it *Esterling*. See the Statute Of Purveyors, cap. 13. By the Statute 31 Ed. 1. the penny which is called

the *sterling*, round, and without clipping, weighs thirty two grains of Wheat, well dried, and twenty pence make an ounce, twelve ounces a pound, and eight pound a gallon of Wine, and eight gallons a Bushel, which is the eighth part of a Quarter, 17 E. 2. cap. 19. The word is not yet out of use; for though we ordinarily say *Lawful Money of England*, yet in the Mint, and the like, they say *sterling Money*.

Stewes, Are those places which were permitted in *England* to Women of professed Incontinency, and that for him would prostitute their Bodies to all Comers. It is derived from the French *Estuvs*, i. *Therma*, vel *Balneum*, because dissolute persons are wont to prepare themselves for venerious acts by bathing. And that this is not new, *Homer* shews in the Eighth Book of his *Odys.* where he reckons hot Baths among the effeminate sort of Pleasures, of these read 11 H. 6. 1. But King *Henry* the Eighth about the year 1546. prohibited them for ever.

Steward, *Senescallus*, Is compounded of *stede*, place and ward; as much as to say, as a man appointed in my place or stead, and hath many several Applications, but alwayes signifies a principal Officer within his Jurisdiction. The greatest of these is the Lord High Steward of England, whose Power formerly was of great extent, but of later time so abridged, that he has not usually been appointed, but only for the dispatch of some special business, as the Arraignment of some Nobleman in case of Treason, or such like, which once ended; his Commission expires. Of the Court of the High Steward of England, you may read 4. *Inst.* fol. 59. Then is the Lord Steward of the King's most Honorable Household, 24 H. 8. cap. 13. whose name was changed to that of great Master by 32 H. 8. cap. 39. But this Statute was repealed by 1 Mar. 2. *Parl.* cap. 4. and the Office and Name of the Lord Steward of the King's Household revived, where you may read much concerning him, as also in F. N. B. fol. 241. Of his ancient Power, read *Fleta*, lib. 2. cap. 3. There is also a Steward of the *Marbalshey*, Pl. Cor. fol. 52. and 33 H. 8. cap. 12. In brief, this word is of so great diversity, that there is in most Corporations, and in all Houses of Honour throughout the Realm, an Officer of this Name and Authority. What a Steward of a Mannor or Household is, or ought to be, *Fleta* fully describes, lib. 2. cap. 71, 72.

Stillyard, *Guildhalda Teutonicorum*, Anno 19 H. 7. cap. 32. 22 H. 8. cap. 8. and 32 H. 8. cap. 14. Was a place in London, where the Fraternity of the Easterling Merchants, otherwise called The Merchants of the Hanse and Almaine, Anno 1 E. 6. cap. 13. had their abode. See *Geld*. It was at first so denominated of a broad Place or Court where *steel* was sold, upon which place that House was founded. See *Hanse*.

Stor and **Stovel**, — *Praterea si homines de stanball dicti Abbatis inventi fuerint in bosco prædicti W. cum forisfacto ad stor, & ad stovel alias Stovene, & aliquis querens corporaliter in terram per eos seisset, fuerit, malefactor pro delicto, qui taliter inventus fuerit, reddet tres solidos, — similiter concessum est quod si aliquis inventus fuerit cum brachiis quercuum vel cum aliis minutis boscis, cum forisfacto*

illo ad stor & ad stovell, Malefactor ille reddet sex denarios, Equadam Cart. Conventionum, inter Will. de Bray & Abbat. & Convent. de Osney. See Zuche.

Strockikind. See *Gavelkind*.

Stotall, — Also moreover we have granted in amendment of the City, that they bin all quit of Bryztchel, of Childwit, Zersgen, and of Stotall: So that no Sheriff of London, neither none other Wayly make Stotall in the Francheis aforesaid, &c. This is in an old Printed Book, which delivers it (among other things) as the Charter of Henry the First to the City of London: But the word is thought to be mistaken for *Scotale*.

Stola, Was a Garment which Matrons wore, and reached down to their Buttocks. *Ovid* in his Second Book *De Tristibus* mentions the word

Quæ stola contingit & stola sumpta decet.

And *Ulpian* also de Auro & argento, Leg. I. Vestis Muliebris, inquit, sunt, veluti stola, pallia, tunicae, &c.

Stone of Wool, *Petra Lana*, Anno 11 H. 7. cap. 4. Ought to weigh fourteen pounds; yet in some places it is more, and in others it is but twelve and a half, *Le charre de plumbo constat ex 30. formellis & quelibet formella continet 6. petras exceptis duabus libris, & quelibet Petra constat ex 12. libris.* Compositio de Ponderibus. A stone of Wax is but eight pound, nor is the stone of Beef at London any more. See *Wrights and Sarples*, and also *Crompton's Justice of Peace*, fol. 83.

Stovene. See *Zuche*.

Stowage, From the Saxon *Stow*, i. *locus*, villa, is the place or part where Goods are laid, or the Money that is paid for such a place.

Stowe, According to *Doomsday* Book signifies Villam, a Village.

Straits or **Sreits**, Anno 18 H. 6. and 1 Rich. 3. cap. 8. A sort of narrow Cloth or Kersey so called.

Stranded, (From the Saxon *Strand*, A shore or bank of the Sea, or any great River,) Is, when any Ship is either by Tempest, or ill Storage, run on ground, and so perishes, Stat. 17 Car. 1. cap. 14. See *Strond*.

Stray, If any Beast do by chance go astray, and come within the Liberty of the Prior, and shall be taken by his Bayliffs, it shall be carried to the *Pinfold*, and there kept a year and a day; if no man claim it within that time, then the Prior shall have it: But if any one come, and shall lawfully prove it to be his, he shall give for every foot one penny, and pay the charges of keeping, and then he shall have his Beast again. *Ex Regist. Priorat. de Cokesford.* See *Estray*.

Stranger, May be derived from the French *Estranger*, aliena. It signifies generally in our Language a Man born out of the Land, or unknown; but in the Law it hath a special signification, for him that is not privy or party to an act. As a stranger to a judgment, *Old Nat. Brev.* fol.

fol. 128. is he to whom a Judgment doth not belong; and in this sense it is directly contrary to party or privy. See *Privy*.

Stream-work, Is a kind of *Works* in the *Stannaries*, which you may find mentioned 27 H. 8. cap. 23. Concerning these, Camden in his *Britan. tit. Cornwall*, hath these words, *Horum stannariorum sive metallicorum operum duo sunt Genera: Alterum Lode-works, alterum Stream-works vocant hoc in locis inferioribus est cum fossis agendis flanni venas sectantur & fluviorum alveos subinde deficiunt; illud in locis aditioribus, cum in montibus puteos, quos shafts vocant in magnam altitudinem defodiunt & cuniculos agunt.*

Street-gavel or *Stret-gavel*, *Quilibet tenens in Manerio de Cholington dabit 2s. pro ita & reditu M. S. de temp. E. 4.* Every Tenant of that Mannor (in *Com. Suffex*) paid yearly two shillings for his going out and returning into it, to the Lord of the Mannor by the Name of *Stret-gavel*, Mich. 4 E. 1. *Coram Rege, Antiquity of Purveyance*, fol. 222.

Strip, *Streptus*, Destruction, Mutilation, from the French *Estropier*, i. *Mutilare*, *streptum* & *vastum* facere, i. To make strip and wast, or stop and wast. See *Estreperment*.

Streteward, *Per Streteward Johannes Stanley Armiger, Clamat quod servientes pacis & Ministri sui infra feodum de Aldford capere debent de qualibet fuga captivorum 4 d. Rot. Pla. in Itin. apud Cestriam, 14 H. 7.* See *Market gelde*.

Strond, Is a Saxon word, signifying a shore or bank of a Sea, or any great River. In a Charter of King Richard, Dated at Canterbury the 4th of November, in the first year of his Reign, we find these words, *Richardus Rex, &c. Notum facimus vobis nos concessisse, &c. Deo & sancto Albano Ecclesie sue sancti Oswini de Tynemuth, velles sancti Albani & Monachis ibidem Deo servientibus omnes terras suas & omnes homines suos, cum sacha, foca, Over strond et streme, on wode & felse, Toll, Them & Grittburge, Hamsoene, Murdrum & Forshall Danegeld, Infangenethes & Vifangenethes, Fleinefremeth, Blodwit, Wreke, &c.* And the Gloss. in 10. *Scriptores* interpreting these words, *On strond et streame, on wode & felse*, saith, *---Voces Anglice veteres & in antiquioris ævi chartis crebro repetite; Privilegium sapient seu potius Privilegii latitudinem sive amplitudinem & sic Latine legantur, in Littore, in Fluvio, in Sylva & Campo.*

Strumper, *Meretrix*, Was heretofore used for an addition, *Jur. presentant, &c. quod Johannes de Mainwaring de Whatcroft de Com. Cest. Esq; Laurentius de Warren de Davenham Esq; &c. Hugo de Sondebach Toman, Hopkin, Norman de Com. Cest. Husband Knave, Willielmus le Birchwood de Clyve Knave cum plurimis aliis & Agnes Cawes de meo Wico de Com. Cest. Strumper, --- Tali die domum Ranulphi Madocke, vi & armis, &c. fregerant, &c. Pla. apud Cest. 6. H. 5. m. 2. in Dorso.*

Stud, Freely to buy and sell as well in *Chester* as in the County and Wiches, where there was no Law, all things with Toll and Stud, besides Salt and Horses, *Mon. Ang. 2. par. fol. 187.* haply it may be the same with *stuth*, which see.

Stuth, *Per Stuth clamat esse quiet. de exa-*

stione pecunie a singulis villis---per vicecom. comitat. Cestria, Pl. in Itin. ibid. 14 H. 7.

Submarshal, *Submarescallus*, Is an Officer in the *Marshalls*, who is Deputy to the chief *Marshall* of the King's House, commonly called *The Knight-Marshall*, and hath the custody of the Prisoners there, *Crompt. Jur. fol. 104.* He is otherwise called *Under-Marshall*.

Subornation, *Subornatio*, A secret or under-hand preparing, intruding or bringing in a false Witness, or corrupting or alluring to do such a false act. Hence *subornation of Perjury* mentioned in the *Act Of General Pardon*, 12 Car. 2. cap. 8. Is the alluring to Perjury, *subornation of Witnesses*, 32 H. 8. cap. 9. and 3. par. *Inst. fol. 167.*

Subpæna. Is a Writ, whereby all persons under the degree of *Peerage* are called into Chancery, in such case only where the Common Law fails, and hath made no provision; so as the Party who in equity hath wrong, can have no ordinary remedy by the Rules and course of the Common Law, *West Symbol. part 2. tit. Proceedings in Chancery, sect. 18.* But Peers of the Realm in such cases are called by the Lord Chancellors, or Lord Keepers Letters, giving notice of the Suit intended against them, and requiring them to appear. There is also a *Subpæna ad testificandum*, for the summoning of Witnesses as well in Chancery as other Courts. There is also a *Subpæna* in the Exchequer, as well in the Court of Equity there as in the Office of Pleas. And these Names proceed from the words in the Writ, which charge the Party summoned to appear at the day and place assigned, *Subpæna Centum Librarum.* See *Crompt. Jurisd. fol. 33.* and Anno 15 Hen. 6. cap. 4.

Subsidium Cathedralicum. See *Cathedralic*.

Subsidy, *Subsidium*, Signifies an Ayd, Tax or Tribute, granted by Parliament to the King, for the urgent Occasions of the Kingdom, to be levied of every Subject, according to the rate of his Land or Goods, after four shillings in the pound for Land, and two shillings eight pence for Goods. No History mentions, that the Saxon Kings had any *Subsidies* after the manner of Ours at present; but they had both Levies of Money and personal Services towards the building and repairing of Cities, Castles, Bridges, Military Expeditions, &c. which they called *Burgbote*, *Wigbote*, *Herefare*, *Heregeld*, &c. But when the Danes harassed the Land, King *Ethelred* yielded to pay them for redemption of Peace several great sums of Money yearly. This was called *Danegeld*, for the levying of which, every Hide of Land was taxed yearly at twelve pence, Lands of the Church only excepted, and thereupon it was after called *Hydagium*, and that Name remained afterward upon all Taxes and *Subsidies* imposed on Lands; for sometimes it was laid upon Cattel, and then was termed *Hornegeld*. The Normans called these sometimes *Taxes*, sometimes *Tallages*, other-whiles *Auxilia* & *Subsidia*. The Conqueror had these *Taxes*, and made a Law for the manner of their levying, as appears in *Emendationibus ejus*, pag. 125. sect. *Voluntas & hoc firmiter, &c.* many years after the Conquest they were levied otherwise than now, as every ninth

Lamb, every ninth Pleece, and every ninth Sheaf, 14 E. 3. stat. 1. cap. 20. Of which you may see great variety in *Rassall's Abridgment*, tit. *Taxes, Tenths, Fifteens, Subsidies, &c.* and 4. *Inst.* fol. 26. & 33. Whence we may gather there is no certain Rate, but as the Parliament shall think fit. Subsidy is in our Statutes, sometimes confounded with Customs, 11 H. 4. cap. 7. See *Benevolence*, and 15 Car. 2. cap. 7.

Subgrunbz, The Eaves of a House, *Tegulae propendentes extra tectum domus ad parietem defensionem, ne imbris corruptantur*, Vocab. utriusq; juris.

Substitute, *Substitutus*, One placed under another to transact, or do some business.

Succinum, *Gemma est ex gummi arboris Glæfaræ congelata, quam diximus appellari à Græcis elestrum*. Of which Juvenal.

*In cuius manibus cœu pinguis Succina tritus
Cernit Ephemeridæ.*

And Martial, *Inclusit tenuem succina gemma feram.*

Sucking, *Per Sucking*, hoc est fore quiet. de illis amerciamenis quando le Eurlimen, id est, fuervorsors del Ringyard, id est clausur, que vocat. le Chiminfilbes vel Common Medowes, & premitur. fuerint ad imparcand. & faciend. clausuras illas simul cum vicinis suis, ille qui non venit ad talem premissionem, amerciatu erit ad pretium unius vomeris, Angliæ a Ducke pretii quatuor denari & hoc quotiescung. premitur. non venerit. Plac. in Itin. apud Cesarium, 14 Hen. 7.

Suffragan, *Suffraganeus*, Is a titular Bishop appointed to aid and assist the Bishop of the Diocesis. Co. 2. *Inst.* fol. 79. calls him a Bishops Vicergerent. Spelman says, *Dicuntur Episcopi qui Archiepiscopo suffragari & assistere tenentur, & suffraganei dicuntur quia eorum suffragiis causæ Ecclesiasticæ judicantur*. By the 26 H. 8. cap. 14. The Diocesan may elect two honest and discreet spiritual persons, &c. and that every such person shall be called Bishop Suffragan.

Suit or Sute, *Secta*, Signifies a following another, but in divers senses. The first is a *Suit in Law*, and is divided into *real and personal*, and is all one with *action real and personal*, Kitch. fol. 74. Secondly, *Suit of Court*, or *Suit-service*, is an Attend that Tenants owe to the Court of their Lord, 7 H. 7. cap. 2. Thirdly, *Suit Covenant* is, when your Ancestor hath covenanted with mine to sue to his Court. Fourthly, *Suit Customs*, when I and my Ancestors have been seised of your own and your Ancestors *suit* time out of mind. Fifthly, *Suit real or regal*, when Men come to the Sheriffs Turn or Leet. See *Leet*. Sixthly, *Sute*, signifies the following one in Chace, as *Fresh-suit*, *Westm.* 1. cap. 46. Lastly, it signifies a Petition made to the King, or any great person.

Suit of the Kings Peace, *Secta pacis Regis*, Is the pursuing a Man for breach of the King's Peace by Treasons, Insurrections or Trespases, 6 Rich. 2. stat. 2. cap. 1. and 27 R. 2. cap. 15. and 5 H. 4. cap. 15.

Suit-silver. See *Sute-silver*.

Suling. See *Swoling*.

Summage. See *Sumage* and *Seme*.

Sumage, *Summagium & summagium*, A Horse-load, also Toll for Carriage on Horseback, *Crompt. Jur.* fol. 191. For where the Charter of the Forest, cap. 14. hath these words, For a Horse that bears loads every half year a half-penny: The Book called *Pupilla Oculi*, useth these words, *Pro uno equo portante summagium, per dimidium annum obolum*, Chart. E. 1. num. 17. It is otherwise called a *Seame*: And a *Seame* in the Western parts is a Horse-load.

Summones, Is a Writ Judicial, of great diversity, according to the divers Cases wherein it is used, which see in the Table of the *Register Judicial*.

Summoner, *Summonitor*, Is a petty Officer, that calls or cites a Man to any Court; these ought to be *boni homines*, that is in *Fleta's* Judgment, *Liberi homines & ideo boni, quia terras tenentes, quod sint coram talibus iusticiariis ad certos diem & locum secundum mandatum iusticiariorum vicecomiti directum, parati inde facere recognitionem*, lib. 4. cap. 5. sect. Et cum.

Summons, *Summonitio*, With us as much as *Vocatio in ius*, or *citatio* among the *Civilians*; And thence is our word *Sumner*, which in French is *Somoneur*, i. *vocator, monitor*. *Summons* of the Exchequer, 3 E. 1. cap. 19. How *Summons* is divided, and what circumstances it has to be observed. See *Fleta*, lib. 6. cap. 6. 7.

Summons in terra petita, *Kitchin*, fol. 286. Is that *Summons* which is made upon the Land, which the Party (at whose Suit the *Summons* is sent forth) seeks to have.

Summons ab Warrantizand, And *sequatur sub suo periculo*, *Dyer*, fol. 69. num. 35. *Summonas ad Warrantizandum*, Is the Process whereby the *Vouchee* is called. See *Ca. on Lit.* fol. 101. b.

Sumptuary Laws, Are Laws made to restrain excess in Apparel, and prohibit costly Clothes; of which we have heretofore had many in England, but all repealed, Anno 1 Jac. See 3. *Inst.* fol. 199.

Super-institution, *Super-institutio*, One Institution upon another; as where A. is admitted and instituted to a Benefice upon one Title, and B. is admitted, instituted; &c. by the Presentment of another. See *Butchins Case* in *Co. Rep.* 2. par. fol. 463.

Superoneratione pasturæ, Is a Writ Judicial, that lies against him who is impleaded in the County, for the overburdening of a Common with his Cattel, in case where he was formerly impleaded for it in the County, and the Cause is removed into the King's Court at *Westminster*.

Super Prerogativa Regis, Is a Writ which lay against the King's Widow, for marrying without his Licence, *F. N. B.* fol. 173.

Superseas, Is a Writ in divers Cases, and signifies in general a Command to stay, or forbear the doing of that which ought not to be done, or in appearance of Law were to be done, were it not for that whereon the Writ is granted. For example, A Man regularly is to have surety of Peace against him of whom he will swear, He

is afraid, and the Justice required hereunto cannot deny him; yet if the Party be formerly bound to the Peace, either in Chancery, or elsewhere; this Writ lies, to stay the Justice from doing that which otherwise he ought not to deny. See the Table of the *Reg. Orig. and Judic.* and *F. N. B. fol. 236.* for preventing the superseding of Executions. See the Statute 16, 17 *Car. 2. cap. 8.*

Super Sacutum Edward. 3. *versus* *Debbants & Laborers*, Is a Writ that lies against him who keeps my Servants, departed out of my Service, against Law, *F. N. B. fol. 167.*

Super Statuto de York, quo nul terra *Wicceller*, &c. Is a Writ lying against him that uses Victualling either in gross, or by Retail, in a City or Borough Town, during the time he is Mayor, &c. *F. N. B. fol. 172.*

Super Statuto, 1 *E. 3. cap. 12, 13.* Is a Writ that lay against the King's Tenant holding in chief, which alienateth the King's Land without his Licence, *F. N. B. fol. 175.*

Super statuto facto pour Sernehal & Marshal de Roy, &c. Is a Writ lying against the Steward, or Marshal, for holding Plea in his Court of Freehold, or for Trespas or Contracts not made within the King's Household, *F. N. B. fol. 241.*

Super Statuto de Articulis Cleri, *Cap. 6.* Is a Writ against the Sheriff or other Officer, that distrains in the King's High-way, or in the Glebe Land, anciently given to Rectories, *F. N. B. fol. 173.*

Supervisor, Is a Latine word signifying a Surveyor or Overseer: It was anciently, and still is a Custom among some, especially of the better sort, to make a Supervisor of a Will, but it is to little purpose; However the first might be good, that he should supervise the Executor, and see the Will truly performed.

Supervisor, Or as now Surveyor of the High-Ways, *Anno 5 Eliz. cap. 13.* See *Surveyor*.

Superficies, Is the surface or top of the Earth, and whatsoever is upon the face thereof, *Vocab. utriusq. juris.*

Supplicavit, Is a Writ issuing out of the Chancery, for taking the Surety of Peace against a Man: It is directed to the Justices of Peace of the County and the Sheriff, and is grounded upon the Statute, *Anno 1 E. 3. cap. 16.* which Ordains, That certain persons in Chancery shall be assigned to take care of the Peace. See *F. N. B. fol. 80.* This Writ was of old called *Breve de minis*, as Lambert saith in his *Eirenarcha*, out of the *Regist. Orig. fol. 88.*

Sur cui in vita, Is a Writ that lies for the Heir of that Woman, whose Husband has aliened her Land in Fee, and she brings not the Writ *Qui in vita* for the recovery of her own Land; In this case her Heir may have this Writ against the Tenant after her decease, *F. N. B. fol. 193.*

Surcharge of the Forest, *Superoneratio Foresta*, Is; when a Commoner puts on more Beasts in the Forest than he has right to, *Manswood, part 2. cap. 14. num. 7.* And is taken from the Writ *De secunda superoneratione Pastura* in the

same sense, when the Commoner surchargeth 3. *Inst. fol. 293.*

Surety of the Peace, *Securitas Pacis* (so called, because the Party that was in fear is thereby secured,) Is an acknowledging of a Bond to the Prince, taken by a competent Judge of Record, for the keeping of the Peace. This Peace may a Justice of the Peace Command, either as a Minister, when he is commanded thereto by a higher Authority; or as a Judge, when he doth it of his own Power, derived from his Commission. Of both these, see *Lambi Eirenarcha. cap. 2. pag. 77.* See *Peace*. See *Supplicavit*, *Securum de bono gestu*, Surety of the good abearing differs from this, that whereas the Peace is not broken without an Affray, or such like; the surety *de bono gestu* may be broken by the number of a Man's Company, or by his or their Weapons and Harnes.

Surplusage, *Surplusagium*, Cometh of the French *Surplus*, i. *corolarium*; and signifies in the Common Law a superfluity, or addition, more than needeth, which sometimes is a cause that a Writ abateth, *Broke, tit. Nugation and Surplusage, fol. 100. Plowden, fol. 63. Dives and Manningham's Case.* It is sometimes also applied to matter of Account, and denotes a greater disbursement than the charge of the Accountant amounteth unto; *Satisfaciant in omnibus quod conveniunt fuerit per predictum compurum inter eos de surplusagio recepto de averiis venditi, &c. Ordinatio de marisco Romeneiensis, pag. 38.*

Surplings, In *Doomesday Book*, according to Mr. Agar's Interpretation, are taken for *Alders*. But in 1. *Inst. fol. 4.* for *Elders*.

Sullery, Denotes a Plough land; as the same Mr. Agar interprets it out of *Doomesday*.

Surgeon, *Chirurgus*, May be deduced from the French *Chirurgeon*, signifying him that dealeth in the Mechanical part of Physick, and the outward Cures performed with the hand; and therefore is compound of two Greek words, *vir. xolh manthi*, *teyov, opis*: And for this cause are they not allowed to minister inward Medicine. See the Statute 32 *H. 8. cap. 4.* and *Palsgrave's Abbridgement, tit. Surgeons.*

Surrespondet, Is a second defence of the Plaintiffs Action, opposite to the Defendants Rejoyners, *West Symb. part 2. tit. Supplications, sect. 57.* and therefore *Hottoman* calls it *TriPLICATIONem*, *que est secunda actoris defensio contra rei duplicationem opposita.*

Surrebutter, Is a second Rebutter, or a Rebutting more than once. See *Rebutter*.

Surrender, *Sursum-redditio*, Is an Instrument in writing, testifying with apt words, that the particular Tenant of Lands or Tenements for life, or years, doth sufficiently consent and agree, That he which has the next or immediate remainder or reversion thereof, shall also have the present Estate of the same in possession; and that he yields and gives up the same unto him: for every Surrender ought forthwith to give possession of the things surrendered; *West, Symb. part 1. lib. 2. sect. 503.* where are several Presidents: There may be also a surrender without writing; and therefore there is said to be a surrender in Deed, and a surrender in Law, A surrender in Deed is, that

which is really and sensibly performed. A *surrender in Law* is, in intendment of Law by way of consequent, and not actual. See of this *Perkins*, cap. 9. & fol. 606. As if a man have a Lease of a Farm, and during the term, he accept of a new Lease; this Act is in Law a Surrender of the former, *Co. 6. Rep. fol. 11.* There is also a customary Surrender of the Copyhold-Land, for which see *Coke sup. Littleton*, sect. 74.

Surrogate, *Surrogatus*, One that is substituted or appointed in the room of another, most commonly of a Bishop, or of a Bishops Chancellor.

Surstile, *Superstilla*, 32 H. 8. cap. 48. Seems to be an especial name used in the Castle of Dover, for such Penalties and Forfeitures as are laid upon those that pay not their Duties or Rent for *Castleward* at their days. *Bracton* hath it in a general signification, lib. 5. tract. 3. cap. 1. num. 8. and *Fleta*, lib. 6. cap. 3. in princ.

Surveyor, *Supervisor*, Is a French compound of *sur*, i. *super* and *veoir*, *cernere*, *videre*. It signifies with us one that has the over-seeing or care of some great persons Lands or Works. As the *Surveyor-General* of the Kings Mannors, *Crompt. Jur. fol. 39.* And in this sense it is taken, 33 H. 8. cap. 39. where there is a Court of *Surveyors* erected: And the *Surveyor* of the Wards and Liveries. But he is taken away with the Court of Wards and Liveries, by the Statute made Anno 12 Car. 2. cap. 24.

Surveyor of the Kings Exchange, 9 H. 5. stat. 2. cap. 4. Was an Officer whose name seems in these days to be changed into some other; for there is none such now, or else the Office now disused.

Survivor, From the French *Survivore*, i. *supereste*, Signifies the longer liver of two Joynt-Tenants. See *Bro. tit. Joynt-tenants*, or of any two joynd in the Right of any thing.

Suskin. See *Gally-half-pence*.

Suspension or **Suspense**, *Suspensio*, Is a Temporal stop of a Mans Right; as when a Seignior, Rent, &c. by reason of the Unity of possession thereof, and of the Land out of which they issue are not in esse for a time, & tunc dormiant, but may be revived or awaked, and so differs from extinguishment, which dies for ever, *Bro. tit. Extinguishment and Suspension*, fol. 314. and *Co. on Lit. lib. 3. cap. 10. sect. 559.* Suspension is also used sometimes by us, as it is in the Canon Law *pro minori Excommunicatione*, Anno 24 H. 8. cap. 12. See *Vocab. utriusq. juris*.

Suspiral, (From the Latine *suspirare*, i. *ducere suspiria*), and seems to be a spring of Water passing under the ground toward a Conduit or Cistern, 35 H. 8. cap. 10. And indeed the word is an absolute French word; for *Suspiral* in that Tongue signifies *spiramentum Caverna*, the mouth of a Cave or Den.

Sute. See *Suit*.

Sute-silver, Is a small Rent, or sum of Money, which, if paid, does excuse the Freeholders from the appearance at the Court. Barons within the Honor of *Clun* in *Shropshire*.

Swan, *Cygnus*. He that stealeth the Eggs of Swans out of their Nests, shall be imprisoned for

a year and a day, and fined according to the King's Pleasure; one moiety to the King, and the other to the Owner of the Land where the Eggs were so taken; and it was a Custom in ancient time, That he which stole a Swan in an open and common River, lawfully marked, the same Swan (if it may be) or another Swan shall be hanged in a House by the beak. And he which stole it in recompence thereof, compelled to give the Owner as much Corn as may cover all the Swans, by putting and turning the Corn upon the head of the Swan, until the Head of the Swan be covered with Corn. See *Co. 7. Rep. Case of Swans*.

Swainherb. See *Kings Swainherb*.

Swainmore alias **Swainmore**, *Swainmotus*, Signifies a Court touching matters of the Forest, and held by the Charter of the Forest thrice in the year; before the Verderors as Judges, Anno 3 H. 8. cap. 18. What things are inquirable in the same, you may read in *Crompt. Jurisd. fol. 180.* And it is as incident to a Forest as a Court of Pye Powder to a Fair; *Nullum Swainmotum de cetero teneatur, in Regno nostro nisi ter in Anno, viz. in Principio quinquedim dierum ante festum sancti Michael, &c. circa festum sancti Martini, & initio quinquedim dierum ante festum sancti Johannis Baptistæ, &c. Charta de Foresta tam Regis Johannis quam Henr. 3. cap. 9.* See 4. *Instit. fol. 289.* This word is compounded of the Saxon *swain*, a Country Swain or Boerlandman, and *Gemot*, *Conventus*, as Mr. Lambert thinks in his *Explication of Saxon words*, verb. *Conventus*; with whom agrees *Mannwood* in his *Forest Law*, pag. 11.

Swartfmoney, *The Swartfmoney* is one peny half-peny; it must be paid before the rising of the Sun; the party must go thrice about the Cross, and say the Swartfmoney, and then take Witnesse, and then lay it in the hole: And when you have so done, look well that your Witnesse do not deceive you: For if it be not paid, you give a great Forfeiture xxx s. and a white Bull. This Exposition was found in an old M. S. containing the Rents due to the *Gateshys* in *Lodbrooke*, and other places of *Warwickshire*; but supposed to be mistaken, or to signifie the same with *Wartfmoney*. See *Ward peny*.

Swepage. Is the Crop of Hay got in a Meadow, called also *The swepe* in some parts of England, *Co. on Lit. fol. 4.*

Swoling or **Suling** of Land, *Sulinga*, *solinga* vel *swolinga terre*, in Saxon *Sulung*, from *sul* or *suth*, *aratrum*; as to this day in the Western parts, a Plough is called a *Sul*, and a Ploughstaff a *Sulpaddle*. It is the same with *Carucata terra*, that is, as much as one Plough can Till in a year: A Hide of Land, though others say it is an uncertain quantity. --- *Terram trium aratrorum quam Cantiani Anglice dicunt, Thre swolings.*

Syb and **som**, *Pax & securitas*, And accordingly we read in the Laws of King *Canutus*, cap. 17. *Eallum, Cipitenum, Mannum ryb, rom gemene*, that is, *Omnibus Christianis Pax & securitas communis esto.*

Sylva rædua, Wood under twenty years growth;

growth; Coppice-wood. See the Statute 45 E. 3. cap. 3. It is otherwise called in Law-French *Sab-bois*, 2 Inst. fol. 642.

Synod, *Synodus*, A Meeting or Assembly of Ecclesiastical persons concerning Religion, of which there are four kinds: 1. *General*, where Bishops, &c. meet of all Nations. 2. *National*, where those of one Nation only come together. 3. A *Provincial*, where they of one only Province meet. 4. *Diocesan*, where those of but one Diocese meet. See *Convocation*, which is all one with a *Synod*, only the one is a Greek, and the other a Latine word.

Synodal, *Synodale*, Is a Tribute in Money, paid to the Bishop, or Arch-deacon, by the Inferior Clergy at Easter Visitation; and it is called *Synodale* quia in synodo frequentius datur. The Impropriation of *Derebit* in *Com. Glouc.* pays yearly 7 s. 9 d. *Pro Synodalibus & Procuracionibus*, Pat. 20. July 34 H. 8. *Et quod sint quieti a Synodalibus & ab omni Episcopali consuetudine excepto denario beati Petri*, Mon. Ang. 2. par. fol. 276. See the *Historical Discourse* of Procurations and Synodals, pag. 66. & 98. These are called otherwise *Synodals* in the Statute of 32 Hen. 8. cap. 16. yet in the Statute of 25 H. 8. cap. 19. *Synodals* Provincial seem to signify the Canons or Constitutions of a Provincial *Synod*. And sometimes *Synodale* is used for the *Synod* it self.

T.

T Every Person convict of any other Felony (save Murder) and admitted to the benefit of his Clergy, shall be marked with a T. upon the brawn of his left Thumb, Anno 4 H. 7. cap. 13.

Tabellion, *Tabellio*, A Notary, Publick or Scrivener, allowed by Authority to ingross and register private Contrasts and Obligations, *Mat. Paris* fol. 424. *De anno 1236.* hath these words, *Quoniam Tabellionum usus in Regno Anglia non habetur, propter quod magis ad sigilla authentica credi est necesse, ut eorum copia facilius habeatur, statuimus ut sigillum habeant non solum Archiepiscopi sed eorum officiales.*

Tabling of Fines, Is the making a Table for every County where his Majesties writ runs, containing the Contents of every *Fine* passed in any one Term, as the name of the County, Towns and Places, wherein the Lands or Tenements lye; the name of the Demandant and Deforçant, and of every Mannor named in the *Fine*. This is to be done properly by the Chirographer of *Fines* of the *Common Pleas*, who every day of the next Term, after the ingrossing any such *Fine*, must fix every of the said *Tables* in some open place of the said Court, during its sitting. And the said Chirographer is to deliver to the Sheriff of every County, his Under-Sheriff or Deputy, fair written in Parchment, a perfect content of the Table so made for that Shire, in the Term next before the Assises for that County, or else between the Term and the Assises, to be set up every day of the next Assises in some open place of the Court, where the Justices of Assises shall then sit, and to continue there during their

sitting: And if either the Chirographer or Sheriff fail herein, he shall forfeit 5 li. And the Chirographers Fee for every such tabling is four pence, 23 Eliz. cap. 3. and *West. Symbol.* part 2. tit. *Fines*, sect. 130.

Taille, *Tallium*, May come from the French word *Taille*, i. *sectura*, and in our Law signifies two several things, both grounded upon one reason, *Plowden*, fol. 251. *Willions Case*. First, It is used for the *Fee*, which is opposite to *Fee-simple*, by reason it is so minced or parted as it were, that it is not in the Owners free power to dispose, but is by the first Giver cut or divided from all others, and tyed to the issue of the Donee, *Co. lib. 4. in Proemio*: And this limitation of *tail* is either *general* or *special*. *Tail general*, is that whereby Lands or Tenements are limited to a Man, and to the Heirs of his Body begotten; and it is so called, how many Wives soever the Tenant holding by this Title shall have, one after another in Lawfull Marriage; his Issue by them all have a possibility to inherit one after another. *Tail special*, is when Lands or Tenements are limited to a Man and his Wife, and the Heirs of their two Bodies begotten; and hath this term of *special*, because if the Man bury his Wife before Issue, and take another, the Issue by his second Wife cannot inherit the Land, &c. Also if Land be given to a Man and his Wife, and to their Son Thomas for ever; this is *Tail special*. See more of this in *Fee*, and *Lit. lib. 1. cap. 2.* and the *New Book of Entries*, verb. *Tail*. *Tail* in the other signification is that we vulgarly call a *Tally*; For *une taille de bois* is a cloven piece of wood, to set up an account upon by Nicks; for in the Statute 10 E. 1. cap. 11. and 27 E. 1. stat. 2. cap. 2. It is termed a *Tail*, and 38 E. 3. cap. 5. and so in *Brokes Abridgement*, tit. *Tail d'Eschequer*, fol. 247. See *Tailles*.

Tail after possibility of Issue extinct, Is, where Land is given to a Man and his Wife, and to the Heirs of their two Bodies engendred, and one of them over-lives the other without Issue between them begotten; He shall hold the Land for term of his own life, as Tenant in the *tail after possibility of Issue extinct*, and notwithstanding that he do waite, he shall never be impeached of it. And if he alien, he in the Reversion shall not have a Writ of Entry in *confinement*, but he may enter, and his Entry is lawfull, by *R. Thorpe* chief Justice, 28 E. 3. 96. & 45 E. 3. 25.

Talles, *Tallia*, Are Tallies, of which we spoke before: Of these two sorts are mentioned in our Statutes, to have been long used in the *Exchequer*, the one is termed *Talles* of Debt, *Ann. i Rich. 2. cap. 5.* which are a kind of Acquittance for Debt paid to the King. As for example, The University of Cambridge payeth yearly ten pounds for such things as are by their Charter granted them in Fee-farm, viz. 5 li. at the *Annunciation*, and 5 li. at *Michaelmas*. He that pays these sums, receiveth for his Discharge a *Taille* or *Tally* at each day, with both which, or notes of them, he repairs to the Clerk of the Pipe-Office, and there, instead of them, receiveth an Acquittance in Parchment for his full Discharge. The other are *Talles* of Reward spoken of 27 H. 8. 11. & 33 & 34 H. 8. 16. and 2 & 3 E. 6. cap. 4. which seem

to be *Tailles* or *Tallies* of allowances, or recompence made to Sheriffs for such matters, as to their Charge they have performed in their Office, or for such Monies as they by course have cast upon them in their Accounts, but cannot levy, &c. See 2 & 3 E. 6. cap. 4. There are also *Tallies* of Debt used among Subjects, *Et si creditor habet Tallem, oportet creditorem probare illam per convicinos suos vel per alios, per quorum fidelitatem Ballivi & alii presentes illo tempore in Curia notitiam habere possunt, & si Creditor petat debitum per vocem suam simplicem tunc debitor potest esse ad suam legem manifestatam.* M. S. Codex de L. L. Statutis, &c. Burgi villæ Montgomer. à temp. H. 2.

Tallage. See *Tallage*.

Taint, Attaint, Cometh of the French *Teint*, i. *infectus*, and signifies substantively, either a Conviction, or Adjectively a person convicted of Felony or Treason, &c. See *Attaint*.

Tales, Is a Latine word of known signification, and used in our Law for a supply of Men impannelled upon a Jury or Inquest, and not appearing, or at their appearance challenged by either Party as not indifferent; in which case the Judge, upon motion, grants a supply to be made by the Sheriff of one or more such there present; and hereupon the very act of supplying is called a *Tales de circumstantibus*. But he that hath had one *Tales* either upon default or challenge, may not have another to contain so many as the former: For the first *Tales* must be under the principal Panel, except in a Cause of Appeal, and so every *Tales* less than other, until the number be made up of Men present in Court, and such as are without exception; yet this general Rule is not without some exceptions, as appears by *Stamford, Pl. Cor. lib. 3. cap. 5.* These commonly called *Tales*, may in some sort, and indeed are called *Meliores, viz.* when the whole Jury is challenged, as appears by *Bro. tit. Offo tales, & auter tales, fol. 105.* See *Co. lib. 10. fol. 99. Benfage's Case.*

Tales, Is also the Name of a Book in the King's-Bench Office, of such Jury-men as were of the *Tales, Co. lib. 4. fo. 93.*

Tallage, Tallagium, May be derived of the French *Taille*, which properly signifies a piece cut out of the whole, but metaphorically is used for a share of a mans Substance paid by way of Tribute, Toll or Tax, *Stat. de Tallagio non concedendo temp. E. 1.* And *Stow's Annals, pag. 445.* Thence come *Talagiers* in *Chaucer* for Tax or Toll-gatherers. See *Subsidy.* *Tallage*, says *Coke*, is a general word for all Taxes, 2 *Inst. fo. 532.* But Tenants in ancient *Demesne* are quit of these Taxes and Tallages granted by Parliament, except the King do Tax ancient *Demesne*, as he may when he thinks good, for some great cause.

Tallies. See *Tailles*.

Talvide. See *Talwood*.

Talwood, Is Fire-wood cleft, and cut in Billets of a certain length. See the Statutes 34 & 35 H. 8. cap. 3. 7 E. 6. cap. 7. *Every Talvide* marked one, being round barked, shall contain sixteen inches of *Assise* in compass, &c. See *Anno 43. Eliz. cap. 14.*

Tangier, An ancient City of *Barbary*, lying within the Kingdom of *Fesse*, mentioned in the Statute 15 Car. 2. cap. 7. and is now part of the Dominion belonging to the Crown of England.

Tanistry, Is a Law or Custome in some parts of Ireland, of which Sir *John Davies* in his Reports, fo. 28. thus, *Quant ascun person seise de ascuns Castles, Mannors, Terres ou Tenements del nature & tenure de Tanistry, que donques mesme les Castles, &c. doent descender, & de temps dont memory ne court ont use de descender, Seniori & Dignissimo viro Sanguinis & cognominis, de tiel person isint morant seise & que le file ou les files de tiel person isint morant seise de tous temps avant dit, ne fueront inheritables de tiels terres ou tenements, ou de ascun part de euz.* The Name seems to be derived from *Thamus*. See Sir *James Ware's Antiquitates Hibernie*, pag. 38.

Tappa. See *Bosimnus*.

Tare and Tret, The first is the weight of Box, Straw, Cloths, &c. wherein Goods are packed. The other is a consideration allowed in the weight for wast, in emptying and reselling the Goods. See the *Book of Rates*.

Tasels, Is a kind of hard Bur used by Clothiers and Clothworkers, in dressing of Cloth, *Anno 4 E. 4. cap. 1.*

Tassum, A Mow or Heap from the French *Tasser*, to pile up. *Commissio facta fuit Roberto Hadham ad vendend. blada & alia bona diversarum Abbatiarum alienigenarum, qui venit & cognovit, quod vendidit blada Prioris de Tickford in garbis in duobus tassis existen. pro 10 li. &c. Hill 25 E. 3. Coram Rege, Rot. 13.*

Tax, Taxa, May be fetched from the Greek *τεκε, Ordo*, because it was a thing done orderly and moderately. It was such a Tribute as being certainly rated upon every Town, was wont to be yearly paid, but now not without consent in Parliament, which was first granted by *Edward the First*, in the Twenty Fifth year of his Reign, cap. 5. It differs from a Subsidy in this, that is alway certain, as it is set down in the *Exchequer-Book*, and levied in general of every Town, and not particularly of every Man. It is also called a *Fifteenth*, *Anno 14 E. 3. stat. 1. cap. 20.* and 9 H. 4. cap. 7. See *Gilde, Subsidy and Fifteen*, and also *Camd. Brit. pag. 304.*

Taxatio Bladozum, An Imposition laid upon Corn.

Taxers, Two Officers yearly chosen in *Cambridge*, to see the true Gage of all weights and Measures: The Name took beginning from taxing or rating the Rents of Houses, which was anciently the Duty of their Office.

Tea, Is a kind of potable Liquor, lately used in England, and introduced from China and the East-Indies, being made of the Leaf of a Shrub, growing in those parts. See 12 Car. 2. cap. 15.

Teame and Theame, Or Tem and Theme, Signifies a Royalty granted by the King's Charter to the Lord of a Manner, for the having, restraining and judging Bondmen, Neifes, and Villains, with their Children, Goods and Chattels in his Court. *Theme est quod habeatis totam generationem villanorum vestrorum cum eorum seisin*

scitis & catallis ubicunque inventi fuerint, excepto quod si natus quietus manserit per unum annum & unum diem in aliqua Civitate vel villa privilegiata, ita quod in eorum communitatem & libertatem transierit — Qui autem jurisdictionem habent hujusmodi curiam de Theme, i. de natiuis vel servis dicuntur habere, &c. Spelman in the Laws of Edward the Confessor, cap. 21. & 25. says, Significare videtur jurisdictionem cognoscendi in Curia sua de advocacionibus sive interciatis, i. de vocatis ad Warrantiam. See Glanvill, lib. 5. cap. 2. and Gloss. in 10 Scriptores. See also Bracton, lib. 3. tract. 2. cap. 8. num. 25. and Skene de verbor. Signif. verb. Theme.

Teinland, Teinlanda, Tainland or Thainland, as if we should say the Land of a Thane or Noble Person. Breve Regis Willielmi Junioris, lib. Rames, f. 178. — Willielmus Rex Anglie W. de Cabaniis salutem; Præcipio tibi ut facias convenire sciam de Hamtona & judicio ejus cognosce si terra de Itham reddidit firmam Monachis sancti Benedicti tempore Patris mei; & si ita invent. fuerit, sit in Dominio Abbatis. Si vero Teinlanda tunc fuisse invenietur, qui eam tenet de Abbate, teneat & recognoscat, quod si noluerit, eam Abbas in Dominio habeat & vide ne clamor inde amplius ad nos redeat, Teste W. Episc. Dunelm. Where Teinlanda seems to signifie Terra Hereditaria & colonorum servituti obnoxia. According to Doomsday, Land holden by Knights service was called Tainland, and Land holden in Socage, Reveland, Co. on Lit. f. 117.

Teirs. See Tierce.

Teller, Is an Officer of the Exchequer, of which there are four; whose Office is to receive all Monies due to the King, and to give the Clerk of the Pell a Bill to charge him therewith. They also pay to all persons any Money payable by the King, by Warrant from the Auditor of the Receipt, and make weekly and yearly Books, both of their Receipts and Payments, which they deliver to the Lord Treasurer.

Thelonium. See Thelonium.

Templers, or Knights of the Temple, Templarii, Was a Religious Order of Knighthood, instituted about the year 1119. and so called, because they dwelt in a part of the Building belonging to the Temple of Jerusalem, and not far from the Sepulchre of our Lord. They flourished here from Henry the Second's Days till they were suppressed. See Knights of the Temple.

Temporalities of Bishops, Temporalia Episcoporum, Be such Revenues, Lands, and Tenements, and Lay-fees, as have been laid to Bishop Sees, by Kings and other great Personages of this Land from time to time, as they are Barons, and Lords of the Parliament. See Spiritualities of Bishops.

Tempus pinguedinis & firmationis, Et sciendum quod tempus pinguedinis his computatur inter festum beati Petri ad Vincula & Exaltationem Sanctæ Crucis, & tempus firmationis inter festum sancti Martini & Purificationem Beate Mariæ. The first is the Season of the Buck, the later of the Doe. See Firnissona.

Tenancies, Are Houses of Habitation, or places to live in, held of another. See 23 Eliz. cap. 4.

Tend, Seems to signifie as much as to offer, shew forth or endeavour; as to tend the Estate of the Party of the Demandant, Old. Nat. Brev. fol. 123. To tend an Averment, Britton, cap. 76. To tend to traverse, Stamf. prærog. fol. 98.

Tender, May seem to come from the French Tendre, i. tener, delicatus, and used adjectively, signifies the same with us in English: But in a legal sense it denotes as much as carefully to offer, or circumspectly endeavour the performance of any thing belonging to us. As to tender Rent, is to offer it at the time and place where and when it ought to be paid. To tender his Law of Summons, Kitchin, fol. 197. Is to offer himself ready to make his Law; whereby to prove that he was not summoned. See Law. See Make.

Tenementis Legatis, Is a Writ that lies to London, or any other Corporation, (where the Custome is, That Men may demise Tenements as well as Goods and Chattels by their last Will,) for the hearing any controversy touching the same, and for rectifying the wrong, Reg. Orig. fol. 244.

Tenant or Tenent, Tenens From the Latine Tenere, to hold; Signifies one that holds or possesses Lands or Tenements by any kind of Right, be in Fee, for Life, Years, or at Will: The word in Law is used with divers additions, as Tenant in Dower, which is the that possesses Land by virtue of her Dower, Kitchin, fol. 160. Tenant per Statute-Merchant, that holds Land by virtue of a Statute forfeited to him, Ibid. fol. 172. Tenant in Frank-marriage, Ibid. fol. 158. He that holds Lands or Tenements by virtue of a Gift thereof made to him upon Marriage between him and his Wife. Tenant by the Courtsey, Id. fol. 159. That holds for his Life, by reason of a Child begotten by him of his Wife, being an Inheretrix, and born alive. Tenant by Elegit, that holds by virtue of the Writ called an Elegit. Tenant in Mortgage, that holds by means of a Mortgage. Tenant by the Verge in ancient Demesne (Id. fol. 81.) is he that is admitted by the Rod in a Court of ancient Demesne. Tenant by Copy of Court Roll, Is one admitted Tenant of any Lands, &c. within a Mannor, which time out of mind have been demisable, according to the Custome of the Mannor, West. Symbol. part 1. lib. 2. f. 646. Tenant by Charter, Is he that holdeth by Feoffment in Writing, or other Deed, Kitchin, fol. 57. There was also Tenant by Knight service, Tenant in Burgage, Tenant in Socage, Tenant in Frank-fee, Tenant in Villenage. So is there Tenant in Fee-simple, Kitchin, fol. 150. Tenant in Fee-tail, Id. fol. 153. Tenant at the will of the Lord, according to the Custome of the Mannor, Id. fol. 132. & 165. Tenant at Will by the Common-Law, Ibid. Tenant upon Sufferance, Ibid. Tenant of Estate of Inheritance, Stamf. Prærog. fol. 6. Tenant in Chief, that holdeth of the King in Right of his Crown, F. N. B. fol. 5. Tenant of the King, Is he that holds of the Person of the King, Ibid. or as some Honor, Ibid. Very Tenant, that holds immediately of his Lord, Kitchin, fol. 99. For if there be Lord, Mesne and Tenant, the Tenant is very Tenant of the Mesne, but not to the Lord above: Tenant Peravayle. See Peravayle, Pl. Cor. 197. and F. N. B. fol. 136. See Dyer's Com. fol. 25. num. 156. So there are also Joynt-tenants, that

have equal Right in Lands and Tenements, by virtue of one Title, *Lit. lib. 3. cap. 3. Tenents in Common*, that have equal Right, but hold by divers Titles, *Ibid. cap. 4. Particular tenant, Stamford. Prærog. fol. 13.* that holds only for his term. See *Coke in Sir Will. Pelham's Case, lib. 1. fol. 15.* called *Tenor for Life or Years.* See *Plowd. Colbrist's Case, fol. 23.* *Sole tenant, Kitchin, fol. 134.* He that hath no other joynd with him. *Several tenant is opposite to Joynt-tenant, or Tenants in Common.* *Tenant al Præcipe*, Is he against whom the Writ *Præcipe* is to be brought, *Co. Rep. lib. 3. Case Of Fines, fol. 88.* *Tenant in Demeſne, 13 E. 1. cap. 9. 32 H. 8. cap. 37.* Is he that holdeth the Demeans of a Mannor for a Rent without Service. *Tenant on Service, 20 Ed. 1. stat. 1.* Is he that holdeth by Service. Vide *Britton, cap. 79. in principio & cap. 96. Car fealty, &c. Tenant by Execution, 32 H. 8. cap. 5.* that holds Land by virtue of an Execution upon any Statute, Recognizance, &c. with divers others.

Tenhebet, A Saxon word signifying *Decanus, caput vel Princeps, decuria Leg. Edw. Conf. cap. 29. Statuerunt Justiciarios super quosq; decem friborgos, quos Decanos possumus appellare, Anglice vero tienheopod, diſti ſunt.* See *Frank-pledge.*

Tenement, *Tenementum*, Signifies most properly a House or Home-stall; but more largely either for a House or Land that a Man holdeth of another, and joynd with the Adjective *Frank*, it contains Lands, Houses, and Offices, wherein we have Estate for term of Life or in Fee: And in this sense, *Kitchin, fol. 41.* makes *Frank-Tenement* and *base Estate* opposite to each other. In the same sort *Britton* uses it, *cap. 27.* as also *Bracton* doth the Latine *liberum tenementum*, *lib. 1. cap. 5. & 6.*

Tenentibus in assillis non onerandis, &c. Is a Writ that lyeth for him to whom a Disseisor hath alienated the Land, whereof he disseised another, that he be not molested for the Damages awarded, if the Disseisor have wherewith to satisfy them himself, *Reg. Orig. 214.*

Tenmantale, A Saxon word signifying *Decuria Tythinga, Leg. Edw. Conf. cap. 20. Et ſunt quieti de Geldis & Danegeldis & thenemanatale & conſolationibus & ſcottis, &c. Cart. 29 Ed. 1. Abbat. de Thornewton.* See *Friburgh.*

The tenor of these presents, *Tenore præſentium*, Is the matter contained therein, or rather the true intent and meaning thereof, as to do such a thing according to the tenor of a writing, is to do the same according to the true intent and meaning thereof.

Tenore inditamenti mittendo, Is a Writ whereby the Record of an Inditament and the Process thereupon is called out of another Court into the Chancery, *Reg. Orig. fol. 169.*

Tenth, *Decima*, Are that yearly Portion or Tribute which all Ecclesiastical Livings pay to the King; for though the Bishop of Rome does originally pretend Right to this Revenue, by the example of the High Priest among the Jews, who had Tenth from the Levites, *Numb. cap. 8. Hierom. in Ezech.* Yet we read in our *Chronicles*, That these were often granted to the King by the Pope upon divers occasions. Sometimes for one year,

sometimes for more, till by the Stat. 26 H. cap. 3. they were annexed perpetually to the Crown. See *Dismes.* It signifies a Tax also levied of the Temporality, 4 *Inst. fol. 34.*

Tentor, A stretcher, tryer or prover, which Dyers and Clothiers use, *Anno 1 R. 3. cap. 8.* But prohibited by 39 *Eliq. cap. 20.*

Tenure, *Tenura*, And is properly derived from the Latine *tenere*, to hold, and accordingly in the *Grand Customary of Normandy, cap. 28.* It is thus defined, *Tenure* is the manner whereby Tenements are holden of their Lords; What may make a *Tenure*, and what not, see *Perkins cap. 10. Reservations 70.* And in that Chapter you shall find the most of those tenures recited that be now usually in England. See *Crompt. Jur. fo. 200. New Book of Entries, verb. Tenure.* Mr. Fabian Philips's Book entituled, *Tenenda non tollenda*, and the Stat. 12 Car. 2. cap. 24. In Scotland there be four manner of tenures, the first is *pura Eleemosina*, proper to spiritual Men, paying nothing for it but *devota Animarum suffragia.* The second, they call *Few* or *Few-ferme*, which holds of the King, Church, Barons, or others, paying a certain Duty called *Funda firma.* The third, is a hold in *Blench*, as they term it, by payment of a *Peny*, a *Rose*, or such like thing, if demanded in the name of *Blench*, id est, *nomine albe firme.* The fourth is by *Service of Ward and Relief*, where the Heir being minor, is in the custody of his Lord, &c. *ſcñe de verborum Signif. verb. Hau- bert.*

Terme, *Terminus*, Commonly signifies the bounds and limitation of time, as a Lease for terme of Life or Years, *Bract. lib. 2. cap. 6. num. 4.* But more notably it is used for that time wherein the Tribunals, or Places for Judgment are open to all that think fit to complain of wrong, or seek their own by due course of Law or Action, the rest of the year is called *Vacation.* Of these *Termes* there be four in every year, during which time Matters of Justice are dispatched. One is called *Hillary Term*, *Terminus sancti Hillarii*, which begins the 23 of January, or if that be Sunday, then the next day after, and endeth the 12 of February following. The second is, *Terminus Pasche*, *Easter Term*, which begins the Wednesday fortnight after Easter-day, and ends the Monday next after Ascension-day. The third is, *Terminus Trinitatis*, *Trinity Term*, beginning the Friday next after Trinity-Sunday, and ending the Wednesday fortnight after. The fourth is, *Michaelmas Term*, *Terminus sancti Michaelis*, which anciently began the Ninth of October; but by the Statute made 17 Car. 1. cap. 6. reduced to the twenty third of October, unless it be Sunday, and then to the day after, and ends the twenty eighth of November following. *Termini apud nos dicuntur certæ anni portiones agendis litibus designatæ.* See *Spelman, De origine & ratione terminorum forensium.*

Termonland, Seems to be the Glebeland, or land belonging to the Church, anciently so called.

Termor, *Tenens ex termino*, Is he that holds for term of years or life, *Kitchin, fol. 151. Littleton, fol. 100.*

Terra Gillifozata, Land held by the tenure of paying a Gilliflower, *M. S.*

Terra

Terra extendenda. Is a Writ directed to the Escheator, &c. willing to inquire and find out the true yearly value of any Land, &c. by the Oath of twelve men, and to certify the extent into the Chancery, &c. *Reg. Orig. fol. 293.*

Terra frusca, Fresh Land, or such as hath not lately been plowed, — *Continens 40. Acres terræ frusca, pastura, &c. Mon. Ang. 2. par. fol. 327.* This is else-where writtē *terra Frisca.*

Terra nova, *Sape legitur in Chartis feodalibus & in sensualibus schedulis, vel pro terra noviter concessa, vel noviter assarta, Prior Lew. pag. 1. Reddat pro nova terra, 2. fol. Spelm.*

Terra vestita, Is used in old Charters for Land sown with Corn.

Terra sabulosa, Gravelly or sandy Ground: *Et prædictæ 24. acæ terræ valent per Annum 13 sol. & 4. denar. & non plus, quia est terra sabulosa, Inqu. 10 E. 3. n. 3. Norf. in Turr. Lond.*

Terra Puturata. See *Putura.*

Terra Lucrabilis, Land that may be gained from the Sea, or enclosed out of a Waste to particular use. — *Tam in Mora quam in terra Lucrabili & Marais cum omnibus Piscariis suis, Mon. Ang. part 1. fol. 406.*

Terra excultabilis, Land that may be tilled or plowed, — *Totam illam terram excultabilem, quam habuit apud Norwicum in campis, Mon. Ang. part 1. fol. 426.*

Terra culta, Land that is tilled or manured, and terra inculta, uncultivated Land. See *Wacoth.*

Terrage, Terragium, Edward the Third granted to John of Gaunt, and Blanch his Wife for their Lives, *Quod sint quieti de Theoleno, Passagio, Saccagio, Lastagio, Tallagio, Caruagio, Priscagio, Pickagio & Terragio,* which seems to be an exemption, à *Præcariis, viz.* Boons of Ploughing, reaping, &c. and perhaps from all Land Taxes.

Terrat, Terrarium vel catalogus terrarum. Is a Book or Roll, wherein the several Lands either of a single Person, or of a Town, are described, containing the quantity of Acres, Boundaries, Tenants Names, and such like, 18 *Eliz. cap. 17.* In the Exchequer there is a *Terrat* of all the Glebe lands in England made about 11 E. 3.

Terris bonis & catallis rehabendis post purgationem, Is a Writ that lies for a Clerk, to recover his Lands, Goods or Chattels, formerly seised, after he hath cleared himself of that Felony, upon suspicion whereof he was formerly convicted and delivered to his Ordinary to be purged, *Reg. Orig. fol. 68.*

Terris liberandis, Is a Writ that lies for a man convicted by Attaint, to bring the Record and Process before the King, and to take a Fine for his Imprisonment, to deliver him his Lands and Tenements again, and to release him of the *Strip and Wash, Reg. Orig. fol. 232.* It is also a Writ for the delivery of Lands to the Heir after Homage and Relief performed, *Ibid. fol. 293.* Or upon security taken that he shall perform them, *Ibid. fol. 313.*

Terris & catallis tentis ultra debitum levatum, Is a Writ Judicial, for the re-

storing of Lands or Goods to a Debtor that is distrained above the quantity of the Debt, *Reg. Jud. fol. 38.*

Terre tenant, Terra tenens, Is he who has the actual possession of the Land, which we otherwise call the Occupation, 39 *Eliz. 7.* For example, A Lord of a Mannor hath a Freeholder, who letteth out his Free hold to another to be occupied; this Occupier (having the actual possession) is called the *Terre-tenant, West Symbol. part 2. tit. Fines, sect. 137. Crompt. Jur. fol. 194. Britton, cap. 29. Perkins Feoffments 231.* *Terse* is a certain Measure of liquid things, as Wine, Oyl, &c. containing the sixth part of a Tun, 32 H. 8. 14. or the third part of a Pipe.

Testament, Testamentum, Is thus defined by Plowden, *Testamentum est testatio mentis, A Testament is a Witness of the Mind; But Aulus Gellius, lib. 6. chap. 12. denies it to be a Compound word, and saith, It is Verbum simplex, as Calceamentum, Paludamentum, &c. And therefore it may be thus better defined, Testamentum, est ultimæ voluntatis iuxta sententia, eo quod quis post mortem suam fieri vult, &c.* Of Testaments there are two sorts, viz. a Testament in writing, and a Testament in words, which is called a Nuncupative Testament, which is, when a Man being sick, and for fear lest death, want of Memory or Speech should come so suddenly upon him, that he should be prevented if he stay'd the writing of his Testament, desires his Neighbours and Friends to bear witness of his last Will, and then declares the same before them by words, which after his decease is proved by Witnesses, and put in writing by the Ordinary, and then stands in as good force as if it had at the first in the life of the Testator been put in writing, except only for Lands, which are devisable but by a Testament put in writing in the life of the Testator. See *Co. on Lit. lib. 2. cap. 10. sect. 167. Plowd. fol. 541. Paramore and Jurdlye's Case, Co. 6. Rep. Marquess of Winchester's Case.* Testament was anciently used (according to Spelman) pro Scripto, *Charta vel Instrumento, quo prædiorum rerumve aliarum transactiones perficiuntur, sic dictum quod de eare vel testimonium ferret vel testium nomina contineret. — Si quis contra hoc mee auctoritatis testamentum aliquod machinari impedimentum præsumpsit, Charta Croylandiæ ab Æthelbaldo Rege, Anno Domini 716.*

Testator, Lat. He that makes a Testament. See *Swinburne of Wills and Testaments.* See *Wills.*

Testatum, Is a Writ in personal Actions, as if the Defendant cannot be arrested upon a *Capias* in the County where the Action is laid, but is returned *Non est inventus* by the Sheriff. This Writ shall be sent out into any other County, where such person is thought to have wherewith to satisfy: And this is termed a *testatum*, because the Sheriff hath formerly testified, that the Defendant was not to be found in his Bayliwick. See *Kitchin's Return of Writs; fol. 287.*

Teste, Is a word commonly used in the last part of every Writ, wherein the Date is contained, which begins with these words, *Teste meipso, &c.* If it be an original Writ; or if Judicial, *Teste Matthæo Hale milite, or Johanne Vaughan milite,* according to the Court whence it issues. Yet we read in *Glanville, lib. 1. cap. 6. & 13. and*

ib. 2. cap. 4. the last Clause of an Original Writ to be *Teste Radulpho de Glanvilla apud Clarendon*, &c. and divers times in the Register of Writs, *Teste Custode Anglie*, as namely in the Title *Prohibition*, fol. 42. and *Consultation*, fol. 54.

Testimonial, 39 *Elix.* 17. Is a Certificate under the Hand of a Justice of Peace, testifying the place and time when and where a Souldier or Mariner landed, and the place of his Dwelling and Birth, unto which he is to pass, or such like, 3. *Inst.* fol. 85.

Tesson, 2 & 3 *E.* 6. cap. 17. A sort of Money which, among the French, did bear the value of 18. *Denar.* But in *Henry* the Eighth's time, being made of Brass, lightly gilt with Silver, it was reduced to 12*d.* and in the beginning of *Edward* the Sixth to 9*d.* and afterwards to 6*d.*

Thacktile, 17 *E.* 4. 4. Otherwise called *Plaintiles*, which are laid on the side of a House.

Thanaage of the King, *Thanagium Regis*, Signified a certain part of the King's Land or Property, whereof the Ruler or Governor was called *Thane*, *Domania Regis & Thanagia idem significant*, says *Skene*.

Thane or **Theyne**, *Thannus*, Signifies sometimes a Nobleman, sometime a Free-man, sometime a Magistrate, but more properly an Officer or Minister of the King, *Lamb.* in his *Explication of Saxon words*, verb. *Thannus*. And *Skene* de verb. Signif. saith, That it is a name of Dignity, equal with the Son of an Earl. This Appellation was in use among us after the Norman Conquest, as appears by *Doomsday*, and by a certain Writ of *William the First*, *Willielmus Rex salutet Hermannum Episcopum, & Stewinum, & Britoi, & omnes thanos meos in Dorsetrensi pago amicaliter*, M. S. de *Abbatshury*. *Camden* says, They were enabled only by the Office which they administered. See *Mill's de Nobilitate*, fol. 132.

Theft, *Furtum*, Is an unlawful felonious taking away of another man's moveable and personal Goods against the Owners will, with an intent to steal them; and this is divided into *Theft* simply so called, and *Petit theft*, whereof the one is of Goods above the value of twelve pence, and is felony: The other under that value and is no Felony, but called *Petit Larceny*. See *Larceny* and *Felony*. *Theft* from the Person, or in the presence of the Owner, is properly called *Robbery*, *West Symbol.* part 2. tit. *Inditements*; sect. 58, 59, 60.

Theftbote, May be derived from the Saxon *Theof*, i. *furtum*, and *Bote*, i. *compensatio*, and signifies properly the receiving of Goods from a Thief, to favor and maintain him, *Est quant homo prist Chatell de Larons de luy favourer & mainteyner & nemy autrement*, 42. *Aff.* pag. 2. And the punishment thereof is Ransome and Imprisonment, and not loss of Life and Member, *Stamf. Pl. Cor. lib. 1. cap. 43.* and the *Mirror of Justice*, lib. cap. *Des Perches criminals al suit le Roy. Anti-* què dicebatur pretium quo furti reus se eximeret à dispendio vite; hodie vero de iis dicitur qui furtiva bona à latrone susceperint, sceleris sui fovendi gratia, quo sensu *Bote* pro prada ut alias solet intelligendum est. In privilegiorum chartis ubi *Theftbote* conceditur, intelligitur aliam esse emenda furti sine considera-

tione *Curia Domini Regis. Theftbote* (inquit statuta Wallie Anno 12 *E.* 1. --Hoc est; emenda furti sine consideratione Curie Domini Regis, *Spelm.* And see 3. *Inst.* fol. 134.

Thegne. See *Thannus* and *Thingus*.

Thelonium, or **Wrebe essendi quiete de thelonio**, Is a Writ lying for the Citizens of any City, or Burghesses of any Town, that have a Charter or Prescription to free them from *Toll*, against the Officers of any Town or Market, who would constrain them to pay *Toll* of their Merchandise contrary to their said Grant or Prescription, *F. N. B.* fol. 226.

Thelonia rationabili habendo pro Dominis habentibus Dominica Regis ad firmam, Is a Writ that lies for him that hath of the King's demesne in Fee-farm, to recover reasonable *Toll* of the King's Tenants there, if his Demesne have been accustomed to be tolled; *Reg. Orig.* fol. 87.

Them. See *Teame*.

Then, Significat *servum*, *Fleta*; lib. 1. cap. 47.

Thenecium, *Quod Prædicti Parochiani* --Decimas inferius annotatas Ecclesiis suis persolvant, scilicet, Decimam lactis, ovorum thenecii agrorum, apum, mellis, &c. *Const. Rob. Winchelsey Archiep.* Cant. tit. de Decimis. Ibi *Lindwode* thenecii agrorum, i. *Arborum crescentium circa agros pro clausura eorum*, vulgarly called *Hedge-rows* or *Dike-rows*.

Thew, *Georgius Grey comes Cantii clamat in Maner. de Buhnton & Ayton punire delinquentes contra Assam panis & cervisie per tres vices per amerciamenta & quarta vice pillos per Pilloriam, Bractatores per tumbrellam, & rixatrices per Thewe*, hoc est, ponere eas super scabellum vocat: a *Cuckingstool*, *Pl. in Itin.* apud *Cestr.* 14 H. 7.

Thingus, (*Thannus*) A Nobleman, a Knight, or Free-man; *Sciatis me concessisse omnibus militibus & omnibus thingis, & omnibus liberè tenentibus, qui manent in Foresta mea de Honore de Lancaster quod possunt, &c.* *Crompt. Jur. fol. 197.*

Thirdborow, Is used for a Constable, Anno 28 H. 8. cap. 10. And *Lambert's Duty of Constables*, pag. 6. and seems to be corruptly used for the Saxon *fpeobopoz*, i. *ingenuus fidejussor*.

Thirvings, The third part of the Corn or Grain growing on the Ground at the Tenants Death, due to the Lord for a Heriot within a certain Mannor, and Lands belonging to the Mannor of *Turfat* in the County of *Hereford*.

Third night awne-binde, *Trium noctium Hospes*: By the Laws of *St. Edward* (cap. *De Hospitibus*) If any Guest lay a third night in an Inn, he was accounted a *Domestick*, and his Host was answerable for what Offence he should commit. **Forman night uncuth**, **Two night Gueste**, **Third night awne-binde**. that is, the first night a Stranger, the second night a Guest, the third night a *Domestick*, *Bract.* lib. 3. tract. 2. cap. 10. num. 2. writs *Hogenbyne* for *Agenbine*.

Item nimir quod si extranei morantur in Burgo prædicto

prædicto ultra tres dies invenient fidejussores de bene gerendo se erga Burgeses & communitatem dum moram inter ipsos fecerint, M. S. Codex de L. Statut. & Consuetud. liberi Burgi Villæ Mountgom. fol. 26. See *Uncuth*.

Thropeny, Denarius tertius est ea pars multarum forensiumque, molenamque in Comitatu olim cedebat comiti, Rege alias duas percipiente, Leg. Ed. Conf. cap. 31. Rex habebit 100. solidos & Consul. comitatus 50. qui tertium habebit denarium de forisfacturæ, &c. and was anciently so fixt, and appropriate to an Earldom; as the Earldom of Oxford, in the Reign of King Henry the Second, passed by the Grant of Tertium denarium comitatus Oxon. ut sit inde Comes. Of which see Selden's *Titles of Honor*.

Thokes, Fish with broken Bellies, 22. E. 4. cap. 2. which by the said Statute are not to be mixt or packt with *Tale fsh*.

Thol, *Tholonium* est libertas emendi & vendendi in terra sua, Lamb. Archæion, fol. 132. **Thol**, i. quod Prior habet in mercato suo die Lunæ quandam mensuram de bladis Venditis & quoddam certum de animalibus & ceteris similibus venditis, Reg. Priorat. Cokeford. See *Toll*.

Thorough-Toll, At a place called *Bongh* in *Yorkshire*; in times past the Earls of Richmond had a Castelet, and a certain Custom called *Thorough-toll*, says *Camden*. See *Toll*.

Thrave of Corn, In most parts of England consists of twenty four Sheaves, or four Shocks, six Sheaves to every Shock, 2 H. 6. cap. 2. yet in some Counties they reckon but twelve Sheaves to the thrave: As in the matter concerning the Burgeses of Derby,---Hi autem ad festum sancti Martini reddebant Regi duodecim trabes anno-ne, Doomsday Book de Burgesibus Derb. See *Peter-corne*.

Thrimsa, From the Saxon *thrim*, which signifies three, was an old piece of Money of three shillings, according to *Lambert*, or rather (as *Selden* thinks) the third part of a shilling, *Titles of Honor*, fol. 604. See *Weregild*.

Thrithing, *Thrithingum*, In the Statute of Merton signifies a Court which consists of three or four hundreds, Co. 2. Inst. fol. 99.

Thrower. See *Silk-thrower*.

Thwertnik, *Edwardus*, &c. *Concessimus* etiam quod Vicecomes noster aut heredes nostrorum qui pro tempore fuerit in dicto comitatu, de cetero faciat executiones pro debitis recuperatis & recognitis in Comitatu vel Scaccario Cestrie aut in itinere Justiciariorum, qui pro tempore fuerit, absq; aliquo capiendi pro executione facienda, licet etiam præteritis temporibus usum sit, prout per chartam habet ipsa communitas, (scilicet Cestrescire) quod si aliquis in curia nostra culpatus fuerit, per thwertnik se defendere possit; quia hæc defensio est contraria legi Communi, nutritrix malorum, pacis æmula & damnoisa populo pacifico: Volumus etiam de consensu & requisitione dictæ communitatis, Ordinamus & precipimus quod dicta defensio per thwertnik de cetero non allocetur sed annulletur totaliter & damnetur, &c. Rot. Cart. de Anno 11, 12, 13 Rich. 2. num. 11. per *Inspex*.

Tidemen, Are certain Officers that belong to the *Custom-house*, and are appointed to watch or attend upon Ships, till the Custom of the

Freight be paid; and they are so called, because they go aboard the Ships at their arrival in the mouth of the *Thames*; and come up with the Tide.

Tierce. See *Teri*.

Tigh or Teage, A Close or Enclosure, a Crof; which word *Tigh* is still used in *Kent* in the same sense. And in an old Charter of the Church of Canterbury, we find this Clause,---*Mansionem* quoque, quæ est in Aquilonali parte Doroberniæ & clausulam quam Angli vocant teage quæ pertinent ad prædictam mansionem, &c.

Tilsen of Batten, Is mentioned Anno 1 H. 8. cap. 14. but not expounded.

Timber of Skins, Is forty Skins, De qualibet Timber de Fitchew venal. Ob. Pat. 10 R. 2. pars 1. m. 10. Hæc civitas (sc. Cestrie) tunc reddebat de firma 45. libras & tres timbres pellium Martinarum, Leg. Edw. Conf.

Timberloze, *Servitutis* genus, quo Vassallus obligatur materiam sive lignum de sylva, ubi prosternitur, ad Domini sui domum deferre, Gloss. in 10. Script.

Tineman or Tienman, Was of old a petty Officer in the Forest, who had the Nocturnal Care of Vert and Venison, and other servile Employments, *Constitution. Forestæ Canuti Regis*, cap. 4.

Tipstaffe, Is one of the Warden of the Fleets Men, that attends the King's Courts with a painted Staff, for the taking such into Custody as are committed by the Court, and to attend such Prisoners as go at large by Licence: These are otherwise called *Bastons*, Anno 1 Rich. 2. cap. 12. and 5 Eliz. cap. 23. They also are called *Tipstaves*, that attend the Judges with a kind of Rod tipped with Silver, and take into their charge all Prisoners either committed or turned over at the Judges Chamber.

Tissue, Is a French word signifying as much as Cloth of Silk and Silver, or of Silk and Gold woven together.

Tithes, *Decime*, Are the tenth part of all Fruits, Predial, Personal and Mixt, which are due to God, and consequently to his Churches Ministers for their Maintenance, Levit. 27. vers. 30. Omnium bonorum licite quæstorum quota pars deo, Divina constitutione debita. And it was of later times Resolved, viz.

Paschæ 1 Jac. Rot. 1119. in Comuni Banco.

Quod decimarum tres sunt species, quedam Personales, quæ debentur ex opere personali, ut Artificio, scientia, Militia, Negotiatione, &c. Quedam Prædiales quæ proveniunt ex prædiis, i. ex fructibus prædiorum, ut Blada, vinum, fenum, linum, cannabum, &c. seu ex fructibus arborum, ut Poma, Pyra, Pruna, Volema; Cerasa & fructus horiorum, &c. Quedam mixtæ, ut de Caseo, Lacte, &c. aut ex fatibus animalium quæ sunt in pascuis & gregatim pascuntur, ut in Agnis, Vitulis, Hædis, Capreolis, Pullis, &c. Ex prædialibus quedam sunt Majores, quedam Minutæ. Majores, ut frumentum, siligo, zizania, fenum, &c. Minores sive minutæ, quidam dicunt, sunt qui proveniunt ex mentha, aneto, oleribus & similibus juxta illud dictum Domini Luc. 11. 42. Væ qui decimatis

matis Mentham & Rutham, &c. Alii dicant quod in Anglia consistunt decimæ minutæ in lino, quæ sunt prædiales & lana, lacte, caseis & in Decimis animalium, agnis, pullis & ovibus; Decimæ etiam mellis & cere numerantur inter Minutas, quæ sunt Mixtæ. Vide Linwood, cap. De Decimis. But Laymen in these later times, by with-drawing or with-holding their Tythes, occasions the Statutes of 27 H. 8. 20. 32 H. 8. 7. and 2 E. 6. 13. which were made to enforce the payment thereof, which former times required not, when more was often given than was either due or demanded. Nay, anciently many men were so scrupulously careful in their payment of Tythes, that at their Death they bequeathed Soulefree to their Parish-Priest, in lieu of any Tythes forgotten, and at their Funerals caused their best Oxe or Horse to be led with the Corps, and as a Mortuary or Oblation given to the Priest, in recompence of any Tythes which might have been forgotten.

Tithing, Tithingum, From the Saxon *Teotunge*, which signifies *Decuriam*: It signifies (according to Lambert in his *Duty of Constables*) the number or company of ten Men with their Families, knit together in a Society, all being bound to the King for the peaceable Behavior of each other. Of these Companies, there was one chief or principal Person, who, from his Office was called *Teothung-man*, at this day in some places *Tithing-man*, but is indeed a Constable, for the old way of Tithings is long since left off. It is also used for a Court, *Magna Chart. cap. 25. Merton, cap. 10. and 23 E. 3. cap. 4.* See Chief Pledge, Frank-pledge, Decennier and Tithing.

Tithingpeny alias **Thithpeny**, alias **Thethingpeny**, *Et sint quieti de Thethingpeny, Tympenny, & de omnibus forisfactis quacunque occasione emeruerunt, &c.* In Mem. Scac. de anno 20 E. 3. Trin. Rot. 3. Abbati & Monachis Rad- ing. *Tithingpeny hoc est quieti de Tallagio Decenna sive Tithing per consuetudinem, M. S. in Biblioth. Cotton. sub tit. Vitellius, C. 9. fol. 221.*

Tillage, Agricultura, Is of great account in Law, as very profitable for the Commonwealth; and therefore arable Land hath the precedence before Meadows, Pastures, Woods, Mines, and all other Ground whatsoever. And by laying of Lands used in tillage to Pasture, six grand Inconveniences ensue.

1. Idleness, which is the ground and beginning of all mischief.
2. Depopulation and decay of Towns, for where in some Towns two hundred persons were employed and lived by their lawful Labours, by converting Tillage into Pasture, only two or three Herd-men are maintained.
3. Husbandry is decayed.
4. Churches are destroyed, by diminution of Church-Livings.
5. Injury and wrong done to Patrons and Ministers.
6. The Defence of the Land against foreign Enemies enfeebled and impaired; the Bodies of Husbandmen being more strong and able, and patient of cold, heat, and hunger than any other.

Title, Titulus, Properly is when a man

hath lawful cause of Entry into Lands whereof another is seised, for which he can have no Action, as title of Mortmain; or title to enter for breach of Condition: But legally this word Title includes a Right also; and Title is the more general word, for every Right is a Title, but every Title is not such a Right for which an Action lyeth, and therefore *Titulus est justa causa possidendi quod nostrum est*, and signifies the means whereby a man cometh to Land, as his title is by Fine or Feoffment. And as by a Release of a Right a Title is released, so by release of a Title, a Right is released also. See Co. 4. Rep. Edward Altham's Case.

Title of Entry, Is, when one is seised of Land in Fee, makes a Feoffment thereof on condition, and the condition is broken; after which the Feoffor hath title to enter into the Land, and may do so at his pleasure, and by his Entry the Free-hold shall be said to be in him presently. And it is called Title of Entry, because he cannot have a Writ of Right against his Feoffee upon condition, for his Right was out of him by the Feoffment, which cannot be reduced with Entry, and the Entry must be for the breach of the condition.

Tob of Wool, Contains twenty eight pound, or two stone, mentioned in the Statute 12 Car. cap. 32. See 3. Inst. fol. 96.

Toft, Toftum, A Messuage, or rather a place where a Messuage hath stood, *West Symbol. part 2. tit. Fines, sect. 26.* And is a word much used in Fines, — *Capitale Toftum & Croftum quod fuit Walteri Patris sui, Cart. Petri de Brus in Biblioth. Cotton. Scites & Toftes, Anno 22 Car. 2. cap. 11.*

Toftman, Toftmannus, The Owner of a Toft, *Toftmanni similiter operabantur à Sancto Michaeli usq; ad Autumnum & in autumno per 6. hebdomadas unaquaq; hebdomade per 2. dies, &c. Pri. Lew. pag. 18.* See Molman.

Toile, Cometh of the French *Toile, i. tela*, and signifieth with us a Net or Cord to compass or take Deer. *Tol. tolleror*, as it is a Verb signifieth to defeat or take away, *Anno 8 H. 6. cap. 9.* as to Toll the Entry is to take away the Right of Entry.

Toll alias **Tholl**, **Tolnetum** alias **Theolonium**, Is a Saxon word, and hath in our Common Law two significations. First, It is used for a Liberty to buy and sell within the Precincts of a Mannor, *Lamb. Arch. fol. 132.* Secondly, For a Tribute or Custom paid for passage, &c. *Bract. lib. 2. cap. 24. num. 3.* Interprets it to be a Liberty as well to take as to be free from toll; for they who are enfeofed with Toll, are Custom-free, saith Skene. *Toll hoc est quod vos & homines vestri de toto Homagio vestro sint quieti de omnibus mercatis & de Tolneto de omnibus rebus emptis & venditis.* Of this freedom from Toll the City of Coventry boasts of an ancient Charter, granted by Leofrich (or Lurich) Merciorum Comes, who at the importunity of Godeva his vertuous Lady, granted this Freedom to that City; and in Richard the Second's time (as Dugdale saith in his *Description of Warwickshire*) the Picture of him & his Lady was set up in the South Window of Trinity Church there, holding in his right Hand a Charter, with these words written thereon.

I Jurich, for the Love of Thee,
Do make Coventry Toll-free.

Some Authors make mention of *Tolthrough*, which is Money paid for passage in or through some High-ways, or over Ferries, Bridges, &c. *Toll-traverse*, for passing over a private Man's Ground, and *Toll-turne*, which is Toll paid at the return of Beasts from Fair or Market, though they were not sold, *Plond. fo. 236. Willion's Case. Kitchin, fol. 104.* By the Ancient Law of the Land, the Buyers of Cattle or Corn in Fairs or Markets ought to pay Toll to the Lord of the Market, *Horn's Mirror of Just. lib. 1. cap. De articles.* The made Latine word *Theolonium*, *Cassaneus de consuet. Burg. pag. 118.* deriveth a Tollendo, but it is more properly deduced from the Greek *τολμα* or *τολμα*, id est, *vestigalium redemptio vel exaltio.* See *Fleta, lib. 1. cap. 47.*

Tollage, Anno 17 Car. 1. cap. 12. See *Tallage.*

Tollester, — *Per Tollester, clamat esse quiet. de reddend. unum Sextarium Cervisia quod continet 16. Lagenas de nouis cervisia mensurata, desultus le Shakcliff pro licentia brasandi cervis, Per totum annum. Ex Rot. Plac. in Itin. apud Cest. 14 H. 7.* The same word occurs in a Charter, 55 H. 3. m. 6. See *Gavelkester.*

Tolt, Tole, Is a Writ whereby a Cause depending in a Court-Baron, is removed to the County Court, *Old Nat. Brev. fol. 2.* and so called, because it does tollere loquelam from the one Court to another. *Preface to Co. Rep. 3. Plac. coram Rege Pasch. 22 E. 1. Ret. 18.* Tolla placiti significat processum per quem causa a jurisdictione curie temporalis tollitur.

Tolfray, — *Venditio salis que debet solvi. Baghel & dimid. salis per mensuram, 4 s. M. S. de temp. Edw. 1.*

Tonne. See *Tunne.*

Tonnage, *Tonnagium*, Is a Custome or Impost paid to the King for Merchandise carried out, or brought in Ships, or such like Vessels, according to a certain Rate upon every Tun; and of this you may read in the Statutes 12 E. 4. cap. 3. 6 H. 8. cap. 14. 1 E. 6. cap. 13. 1 Jac. 33. but especially 12 Car. 2. cap. 4.

Torney. See *Turney.*

Tort, Is a French word for injury or wrong, as *de son tort mesme*, in his own wrong, *Cro. Rep. fol. 20. White's Case.* Wrong or injury is properly called *Tort*, because it is wrested or crooked, *Co. on Lit. fol. 158.*

Tortfeasor, a Wrong-doer, a Trespasser, *Cro. 2. par. fol. 383. num. 11.*

Toties quoties, Anno 19. Car. 2. cap. 4. and signifies As often as.

Totter, A good Debt to the King, is by the foreign Opposer, or other Officer in the Exchequer, noted for such, by writing this word *Tot* to it; Anno 42 E. 3. cap. 9. and 1 E. 6. 15. See *Practise of the Exchequer, pag. 71.*

Totteray, Was a Customary payment of four pence for every Bushel and a half of Corn, sold at Maldon in Essex, *Hill. 15 E. 1.*

Tourne, See *Turn.*

Tout temps prêt & uncoze est, That is always ready, and is so at this present: This is a kind of Plea in way of excuse or defence for him that is sued for any Debt or Duty belonging to the Plaintiff. See *Broke's Abridgment, fol. 258.*

Towage, *Towagium*, Is the rowing or drawing a Ship or Barge along the water by Men, or Beasts on Land, or by another Ship or Boat fastned to her. Also that Money, or other recompence, which is given by Bargemen to the Owner of the Ground next a River where they tow a Barge, or other Vessel, *Dominus Rex habeat & habere debeat Throwagium navium & Battellorum majorum & minorum in aqua de Tyne, &c. Pla. coram Rege & ejus concil. Parl. 18 E. 1. in Tur London.*

Traylbaston, See *Justices of Traylboston.*

Traytor, *Proditor*, See *Treason.*

Trayterous possession, Of taking Arms by the King's Authority against his Person, and those that are commissioned by him, condemned by the Stat. 14 Car. 2. cap. 3.

Transcript, Anno 34 & 35 H. 8. cap. 14. Is the Copy of any Original written again or exemplified, as the *Transcript* of a Fine.

Transcripto Recognitionis facte coram Justiciariis itinerantibus, &c. Is a Writ for the certifying of a Recognisance taken before Justices in Eyre into the Chancery, *Reg. Orig. fol. 152.*

Transcripto pedis finis levati mittendo in Cancellarium, Is a Writ for the certifying the foot of a Fine levied before Justices in Eyre, &c. into the Chancery, *Reg. Orig. fol. 169. & Reg. Judic. fol. 14.*

Transgression, Is a Writ commonly called a Writ or Action of Trespass, of which *Fitzherbert* reckons two sorts, one *Viciniis* so called, because it is directed to the Sheriff, and is not returnable, but to be determined in the County; the form whereof differs from the other, because it hath not these words, *Quare vi & armis*, &c. *F. N. B. fol. 84.* The other is termed a Writ of Trespass upon the Case, which is to be sued in the King's Bench or Common Pleas, in which are used always these words, *Vi & armis*, *F. N. B. fol. 92.* See *Trespass.*

Transire, Anno 14. Car. 2. cap. 11. Is used for a Custom-house Warrant or Let-pais from *Transire*, to go forth or let pass.

Transitory, Is passing away or flitting, the opposite to *Local*, See *Local.*

Tranterie, So in some Mannors they call the Money arising by Amerciaments of Ale-sellers and Victuallers, for breaking the Assise of Bread and Ale, as *Juston*, and other Mannors in Herefordshire, especially those belonging to the Bishoprick of Hereford.

Translation, *Translatio*, In common sense signifies the verion out of one Language into another; but in a more confined, denote the setting from one place to another; as to remove a Bishop from one Diocess to another is called *Translating*, and such a Bishop writes not *Anno Consecrationis*, but *Anno translationis nostrae.*

Traverse, (A derivative from the French *Traverser*,

Traverser, i. *Transfigere*, signifies sometimes to deny, sometimes to overthrow or undo a thing, or to put one to prove some matter; much used in Answers to Bills in *Chancery*, or it is that which the Defendant pleadeth, or saith in Bar to avoid the Plaintiffs Bill, either by confessing and avoiding, or by denying and traversing the material parts thereof, *West Symbol.* part 2. tit. *Chancery*, sect. 54, 55. The formal words of which *Traverse* are in our French *Sans ceo*, in Latine *absq; hoc*, and in English *without that*. See *Kitchin*, fol. 227. and 240. *Stamf. Prærog.* cap. 20. To *traverse* an Office, is nothing else but to prove, That an Inquisition made of Lands or Goods by the Escheator is defective, and untruly made. So to *traverse* an Indictment, is to take Issue upon the chief Matter, and to contradict or deny some point of it. As in a Presentment against A. for a High-way overflown with Water, for default of scouring a Ditch, &c. A. may *traverse* either the Matter, that there is no High-way there, or that the Ditch is sufficiently scoured; or otherwise he may *traverse* the Cause, *viz.* That he hath not the Land, or that he and they whose Estate, &c. have not used to scour the Ditch, *Lamb. Eiren. lib. 4. cap. 13. pag. 521, 522.* See the *New Book of Entries*, verb. *Traverse*.

Treason, *Proditio*, Of the French *Trahi son*; and it is divided into *High Treason* and *Petty Treason*; *High Treason* is defined to be an Offence committed against the Security of the King or Kingdom, whether it be by Imagination, Word or Deed; as to compass or imagine the death of the King, Queen or Prince; or to deflower the Kings Wife, or his eldest Daughter unmarried, or his eldest Sons Wife: or levy War against the King in his Realm, adhere to his Enemies, counterfeits his Great Seal, Privy Seal; or Money: Or wittingly to bring false Money into this Realm counterfeited, like the Money of England, and utter the same. To kill the Kings Chancellor, Treasurer, Justices of either Bench, Justices in Eyre, of Assize, or of Oyer and Terminer, being in their place doing their Office, *Anno 25. E. 2. cap. 2.* Forging the Kings Seal Manual or Privy Signet, Privy Seal, or foreign Coyn current here, *Anno 2. Mar. Cap. 6.* Or diminishing or impairing current Money, *5 Eliz. 11. 14. Eliz. cap. 3. 18. Eliz. 1.* Or to say the King is an Heretick or Papist, or that he intends to introduce Popery, &c. *Anno 13. Ear. 2. cap. 1.* And many others, which you may read there, and in other places particularly expressed. In case of this *Treason*, a Man shall be drawn, hanged and quartered, and forfeit his Lands and Goods to the King. It is called also *Treason Paravolunt*, *Anno 25. E. 3. cap. 2.* *Petty Treason* is, when a Servant kills his Master, a Wife her Husband: or when a Secular or Religious Man kills his Prelate or Superior, to whom he owes Faith and Obedience: and in how many other Cases *Petty Treason* may be committed, see *Crompt. Just. of Peace*. This kind of *Treason* gives forfeiture of Escheats to every Lord within his own Fee. See *Brass. lib. 3. tract. 2. cap. 3. num. 1, 12.* There is also mention of *Accumulative Treason* and *Constructive Treason*, in the Statute *13. Car. 2. cap. 29.* And here observe, that in *Majori proditione omnes sunt Principales*, there are no Accessaries in *Treason*, all are Principals. And *Voluntas non re-*

putabitur pro facto nisi in causa Proditionis, for *Petty Treason*. See *Co. 1. Rep. Shellyes Case*.

Treasure, *Thesaurus*. The Kings *treasure* is the Sinews of War, and the Honor and Safety of the King in time of Peace, *Firmamentum Belli & ornamentum Pacis*. If any Mine of base Metal be found in any Ground, it belongs to the Lord of the Soyl, but if it be of Gold or Silver, it appertains to the King, in whose Ground soever they be found.

Treasure trove, *Thesaurus inventus*, Signifies in our Common Law as it does in the Civil, *Veterem depositionem pecunie, cujus non extat memoria, ut jam Dominum non habeat*, with which definition *Bracton* agrees: And though the Civil Law give it to the finder, according to the Law of Nature, yet the Law of England gives it to the King by his Prerogative, or to some other who Claim by the Kings Grant, or by Prescription, as appears *Bract. lib. 3. tract. 2. cap. 3. num. 4.* The Punishment for concealing *Treasure found*, is Imprisonment and Fine, *Stamf. Pl. Car. lib. 1. cap. 42. Fitzherb. Abridgment, pag. 187.* But if the owner may any ways be known, then it does not belong to the Kings Prerogative. *Britton, cap. 17.* says, 'Tis every Subjects part as soon as he has found any *Treasure* in the Earth, to make it known to the Coroners of the County, &c. See *Kitchin*, fol. 40. *Anno 1 & 2 P. & M. cap. 15.* This was anciently called *Findbaringa*, of finding the *Treasure*, *Leg. Hen. 1. cap. 11.* See *3. Inst. fol. 132.*

Treasurer, *Thesaurarius*, Is an Officer to whom the treasure of another is committed to be kept, and truly disposed of: The chiefest of these with us is the *Treasurer of England*, who is a Lord by his Office, and one of the greatest Men of the Land, under whose Charge and Government is all the Princes Wealth contained in the Exchequer, as also the Clerk of all Officers any way employed in the collecting of the Imposts, Tributes, or other Revenues belonging to the Crown, *Smith de Rep. Anglor. lib. 2. cap. 14.* See more belonging to this Office, *20 E. 3. 6. 31. H. 6. 5. 4 E. 4. 1. 17 E. 4. 5. 21 H. 8. 20. and 1 E. 6. 13.* This high Officer hath by vertue of his Office, the nomination of all Escheators yearly throughout England, and giveth the Places of all Customers and Searchers in all the Ports of the Realm, with divers other matters, &c. There is also the *Treasurer of the Kings Household*, who is of the Privy Council, and in the absence of the *Steward of the Kings Household* hath Power with the *Controller* and *Steward of the Marshalsea*, without Commission, to hear and determine Treasons, Misprisions of *Treason*, Murder, Homicide and Bloodshed committed within the Kings Palace, *Stamf. Pl. Cor. lib. 3. cap. 5.* In *Westm. 2. cap. 8.* There is mention of the *Treasurer of the Exchequer*, *Treasurer of the Navy or War*, *27 E. 3. stat. 2. cap. 18.* *35 Eliz. cap. 4.* *Treasurer of the Kings Chamber*, *26 H. 8. 3. 33 H. 8. 39.* *Treasurer of the Wars*, *7 H. 3. 1. 3 H. 8. 5.* *Treasurer of the Kings Wardrobe*, *15 E. 3. stat. 1. cap. 3. 25 E. 3. stat. 5. cap. 21.* Whose Office you have well set out in *Fleta*, lib. 2. cap. 14. *Treasurer of the County for Poor Souldiers*, *25 Eliz. cap. 4.* And most Corporations through the Kingdom have an Officer of

of this Name that receiveth their Rents, and disburseth their common Expences, and is of great Credit among them.

Treat, Cometh of the French *Traire*, i. *emulgere*; or rather from *traustus* drawn, and signifies as much as taken out or withdrawn: As a Juror was challenged, because he could not dispend forty pound, and for that cause he was *treate*, (that is with-drawn) by the Statute *Old Nat. Brev. fol. 159.*

Trebuchet, *Terbichetum*, A Tumbrel or Cuckingstool, 3. par. *Inst. fol. 219.* See *Tribuch*.

Treete, *Triticum*, Wheat; In the Statute 5. H. 3. Bread of *treete* seems to be that Bread which was made of fine Wheat. See *Cocket*.

Trental, *Trentale*, An Office for the dead that continued thirty days, or consisting of thirty Masses, from the Italian *Trenta*, that is; *triginta*, mentioned 1 E. 6. 14.

Trespas, *Transgressio*, Signifies any transgression of the Law under Treason, Felony; or Misprision of either, *Stamf. Pl. Cor. fol. 38.* where he says, That for a Lord of the Parliament to depart from the Parliament without the Kings Licence, is neither Treason nor Felony, but *trespas*. But it is most commonly used for that wrong or damage which is done either to the King in his Forest, or by one private Man to another; and in this signification it is of two sorts, *Trespas general*, otherwise termed *trespas vi & armis*; and *Trespas special*, otherwise called *Trespas upon the Case*; and this seemeth to be without force, howbeit sometimes they are confounded. How to distinguish the forms of these Writs or Actions, see *F. N. B. fol. 86, 87.* In an Action of *Trespas*, the Plaintiff always sues for Damages, or the value of the hurt done him by the Defendant. There is also *Trespas local*, and *Trespas transitory*. *Trespas local* is that which is so annexed to a place certain, that if the Defendant joyn issue upon the place, and traverse the place only by saying *absq; hoc*, that he did the *trespas* in the place mentioned in the Declaration, and aver it, it is enough to defeat the Action: *Trespas transitory*, is that which cannot be defeated by the Defendants traverse of the peace, because the place is not material; but Actions of *trespas quare claustrum fregit* ought to be local, *Bratton, lib. 4. cap. 34. num. 6.* divides *Transgressionem* in *Majorem & Minorem*. See also *New Book of Entries, verb. Trespas*.

Trespasants, Is used by *Britton, cap. 29.* for Passengers.

Trial, *Triatio*, Is used for the Examination of all Causes civil or criminal, according to the Laws of the Realm, before a proper Judge; of which there are divers kinds, as matters of Fact shall be tried by the Jurors, matters of Law by the Justices, matters of Record by the Record it self. A Lord of Parliament upon an Indictment of Treason or Felony, shall be tried without any Oath by his Peers upon their Honors and Allegiance; but in appeal at the Suit of any Subject they shall be tried *per bonos & legales homines*. If ancient Demesne be pleaded of a Mannor, and denyed, this shall be tried by the Record of *Doomsday*. *Bastardy*, *Excommenement*, lawfulness of Marriage, and other Eccle-

siastical Matters shall be tried by the Bishops Certificate. Of the ancient Manner of trial by Combat and great Assise, see *Combat and Assise*. See also *Stamf. Pl. Cor. cap. 1, 2, 3.* And *twelve men. Triatio est exactissima, litis contestata, coram Judice per duodecim virale Sacramentum exagitatio*, Pat. 3 R. Joh. m. 3. in fidelitate Leulini. Statuitur de triatione differentiarum, disti Leulini, &c.

Tribuch and **Trebuchet**, *Terbichetum*, A Tumbrel or Cuckingstool; *Hec omnia concedimus deo & Ecclesie Sancti Albani cum Soca & Sacd on Strond & Strime, on Wude & Felo. Toll & Teym, Tribuch, Hamfoken, Mardre, Forestal, &c.* Carta Joh. Regis, Dat. 11. Jun. Anno Regni 1.

Trining & **Trithing**, *Trithinga* contains three or four Hundreds, or the third part of a Shire or Province: Also a Court held within that Circuit, which was the same we call a *Court Leet*, which is above a Court Baron, and inferior to the County Court. See *Camden, pag. 102. Breve de Attornato de loquellis, &c. Registr. 266. Provisum est quod quilibet liber homo liberè possit facere Attornatum suum ad loquellas prosequendas & defendendas motas in trithingis, Comitatus, Warpentachis & aliis Curis sine breve nostro, Sur le Statute de Merton, cap. 10. Fiat autem visus Francii Plegii sic, viz. quod pax nostra teneatur & quod trithinga sit integra, sicut esse consuevit, Mag. Charta, cap. 36. See *Fleta, lib. 2. cap. 61. Sect. Final. & Origin. Jurisdici. fol. 26. See Latb. See Pupilla oculi, part 5. cap. 22. and Roger Hoveden, parte poster. suor. annal. fol. 346.**

Treswel of double soled shoes, 2 & 3 E. 6. cap. 9. It should rather be written *Creswel*, signifying the broad edge of the shoe-sole round about.

Trinity-house, Is a House at *Debtford*, which belongs to a Company or Corporation of Seamen, that have Power, by the Kings Charter, to take knowledge of those that destroy Seamen, and to redress their doings; as also to correct the Faults of Saylor, &c. and to take care of divers other things belonging to Navigation, and the Seas, Anno 8 Eliz. 13. and 35. Eliz. 6.

Trinke, Is a kind of Net to catch Fish withal, Anno 2. H. 6. cap. 15.

Triours, Are such as be chosen by the Court to examine whether a Challenge made to the Panel, or any of the Panel, be just or no; *Bro. tit. Challenge, fol. 122. and Old Nat. Brev. fol. 158.*

Tristis, *Tristis* & *Trista*. From *Trast*, i. *Trust*, Is an immunity, whereby a man is freed from his attendance on the Lord of a Forest, when he is disposed to chase within the Forest, and shall not be compelled to hold a Dog, follow the Chace, nor stand at a place appointed, which otherwise he might be under pains of Amercement, *Mamwood, part 1. pag. 86: Et sine quieti, &c. de Chevagio, Hondpeny, Backstall, & Tristis, & de omnibus misericordiis, &c. Priviled. de Scamplingham, 4. Inst. fol. 306.*

Thything. See *Trining*, 2 Inst. fol. 99.

Tronage, *Tronagium*, Is a Custome or Toll taken for weighing of Wooll. *Fleta, lib. 2. cap. 12. sect. Item Uinas, says; That Trona is a Beam to weigh with, mentioned in Westm. 2. cap. 25.*

Tronator, From *Trona*, i. *statera*, An Officer in the City of London, who weighs the Wool that it brought thither. See his Oath in the Book of Oaths, fol. 231.

Trover, Cometh of the French *Trover*, i. *invenire*, Is an Action which a man hath against one, that having found any of his Goods, refuseth to deliver them upon demand. See the *New Book of Entries*, verb. *Trover*. Actions of Detinue are of late much turned into Actions upon the Case, *Sur Trover & Conversion*, Preface to Roll's Abridgment.

Troy weight, *Pondus Troja*. See *Weight*.

Trug, -- *Tres Truggæ frumenti vel avenæ faciunt* 2. *Bushels infra Prebendam de Hunderton in Eccles. Heref. M.S. de temp. E. 3.* And at *Lempster* at this day the Vicar has *Trug-Gorn* allowed him for officiating at some Chappels of Ease (as *Stoke and Dorkelay*) within that Parish.

Tumbrell, *Tumbrellum, Turbichetum*, Is an Engine of Punishment, which ought to be in every Liberty that hath view of Frank-pledge, for the Correction of Scolds and unquiet Women, *Kitchin, fol. 13.* See *Cuckingstool, New Book of Entries, Franchise 2. Et quo warranto 1.* Item si aliquis qui in libertatem nostram, per assensum & consensum Combargensium nostrorum admittitur fuerit, fecerit aliquod delictum, per quod ad penam publicam seu vile Judicium, ut ad Collistrigium vel tumbrellum, vel aliquod aliud injusmodi adjudicatus fuerit, pro perjuro reputabitur, & ipso facto amittet libertatem suam, *M. S. Codex de Leg. Stat. & consuetud. Burgi villæ Montgom. fol. 11.*

Tun, Is a Measure of Wine or Oyl containing twelve score and twelve Gallons, *1 Rich. 3. cap. 12. 2 H. 6. 11. and 12 Car. 2. cap. 4.* A Tun of Timber is forty solid Feet, a Load fifty.

Tunnage. See *Tonnage*. It began in the five and fortieth year of *Edw. 3. Cottoni Postuma, fol. 172.* See *4 Inst. fol. 32.*

Tungreve, A Reeve or Bayliff, *Qui in villis (quæ dicimus Maneriis,) Domini personam sustinet ejusque vice omnia disponat & moderatur.* See *Spelman*.

Turbary, *Turbaria*, From *turba*, an obsolete Latine word for a Turf: Is a right to dig turves on another Man's ground, *Kitchin, fol. 94.* And *Common of Turbary* is a liberty which some Tenants have by prescription to dig on the Lords Wast. *Turbaria* is also taken sometimes for the Ground where Turves are digged. And you shall find an Affise brought of *Common of Turbary* in *5. Aff. Pl. 9. & 7 E. 3. fol. 43.*

Turmeric, *Turmerica*, Is the Root of an Herb growing in *Arabia*, Medicinal against divers Diseases in Horses, and sometimes used for a Man also in case of the yellow Jaundice. It is reckoned among the garblicable Drugs, *Anno 1 Jac. cap. 19.*

Turne, *Turne*, Is the Sheriffs Court kept twice every year, viz. within a Moneth after Easter, and within a Moneth after Michaelmas, *Magna Charta, cap. 35. and 3 E. 3. cap. 15.* From this Court are exempted onely Archbishops, Bishops, Abbots, Priors, Earls, Barons, all religious Men and Women, and all such as have Hundreds of their own to be kept, *Anno 25 H. 3. cap. 10.*

Bretton, cap. 29. calls it *Tour*, id est, *'ambitus circuitus*: It is a Court of Record in all things that pertains to it. It is the King's Leet through all the County, and the Sheriff is Judge, and this Court is incident to his Office. See *Crompt. Jur. fol. 230.* and *4 Inst. fol. 260.* See *Fleta, lib. 2. cap. 52.* and *Mirror of Just. lib. 1. cap. De turnes.*

Turney or Tournment, *Turneamentum*, Comes from the French *Tourney*, i. *Decursorium*, and signifies a Martial Exercise of Knights or Gentlemen fighting on Horse-back one with another in disport, and is thus defined, *Torneamenta dicuntur Nundine vel ferie in quibus milites ex condilio convenire & ad ostentationem virium suarum & audacia, temere congrédi solent.* This word is used in the Statute *Anno 24 H. 8. 13.* But the thing it self is now totally disused.

Turno Vicecomitum, Is a Writ that lies for those that are called to the Sheriffs turn out of their own Hundred, *Reg. Orig. fol. 174.*

Twaite, Signifies a Wood grubbed up, and turned to Arable, *Co. on Lit. fol. 4.*

Twa nights Ceste, *Hospes duarum noctium*, If he did any harm to any, his Host was not answerable for it, but himself, *Hoveden part. poster. suor. ann. 1. fol. 345.* See *Third Nights-awne-binde.*

Twelve Men, *Duodecim homines legales*, Otherwise called the *Jury* or *Enquest*, is a number of twelve persons, or upwards, to the number of twenty four, by whose Oath as to matter of Fact all Trials pass, both in civil and criminal Causes through all Courts of the Common Law in this Realm. First, In civil Causes, when proof is made of the matter in question, then the point of the Fact (that they are to give their Verdict upon) is delivered likewise unto them, which we call *the Issue*; then they are put in mind of their Oath to do right, and are by the Judges, who sum up the Evidence, sent out of the Court by themselves, to consider upon the Evidence on both sides, until they be agreed, which done, they return to the Court, and deliver their Verdict by the mouth of their Fore-man; according to which (if the matter be not arreited or stay'd by the Court) the Judgment passeth. See *Glanville, lib. 2. cap. 14, 15.* In *Causes criminal* there are two sorts of *Enquests*, one called the *Grand Enquest*, the other the *Enquest of Life and Death*. The *Grand Enquest* is so called, either because it consists of sixteen at the least, or else because all Causes criminal or penal pass first through them; whereas the other *Enquest* is especially appointed for one or few matters touching Life and Death committed to their consideration. Those of the *Grand Enquest* are called by *Brañon Duodecim milites*, lib. 3. tract. 2. cap. 1. num. 2. Because they were wont to be Knights, if so many could be had: And their business is to receive all Presentments of any Offence, and accordingly to give their Opinion generally, either by writing these words, *Billa vera* upon the Bill of Presentment, which is an Inditement of the Party presented; or else this word *Ignoramus*, which is a doubting of the Fact presented. Now as criminal Causes be of two sorts, either capital or finable, so is there a double course of these Inditements; for in Causes only finable, the Party indited

indited must either traverse the Inditement by denying it, and so it is referred to a *Petit Jury*, whereby he is either convicted or discharged of the Crime, or else if he confess it, the Court setteth a Fine upon him without more ado. But in matters of Life and Death, the Party indited is commanded to hold up his hand, and answer, *Guilty or Not Guilty*; If *Guilty*, he standeth convicted by his own Confession; If *Not Guilty*, he is farther referred to the Jury of Life and Death, who consider upon the Proof brought against the Prisoner, and accordingly bring in their Verdict; according to which he is either condemned or acquitted. Of this read more in *Inditement*, *Affises*, *Jury*. See the Stat. 35 H. 8. cap. 6. & 37 H. 8. 22. 2 E. 6. 32. and 5 Eliz. cap. 25.

Tylwith, Is a Brittain word signifying *Familia*, *famulitium*; *Tribus*, and is derived either from *Tyle*, i. e. *locus ubi stetit domus vel locus edificanda domus aptus*, or else from *Tylath*, which signifies *Trabs*, *tignus*; In the first derivation it signifies a place whereon to build a House, and in the second a Beam in the building. And *Tylwith* is a Tribe or Family branching or issuing forth of another, which we in our English Heraldry call *Second or third Houses*: So that in case the great Paternal Stock branched it self into several *Tylwiths* or *Houses*, they carry no second or younger House further his *Tylwith*, and the use of these *Tylwiths* was to shew not only the Originals of Families, as if their work had been merely to run over a Pedegree, but the several distinctions and distances of Birth, that in case any Line should make a Fayler, the next in degree may make an unconfounded use of their interest, according to the Rules of Partition in *Gavelkind*.

Tymber of Skins, Is forty Skins, *Book of Rates*, fol. 18.

Tympany, *Abbas & Monachi Rading*—*sint quieti de tributis & lastagiis & stallagiis de Thingpeny & Tympany*, de *summonitionibus de affis & super affis*, &c. In Memorand. Scac. de Anno 20 E. 3. int. Record. de Trin. Rot. 3. It is elsewhere written *Tynpeny*, Mon. Ang. 1. par. fol. 419.

V.

V Is a numeral Letter, and stands in reckoning for five; And among the ancient Romans was usually written alone as a *Pranomen*, as *M. V.* for *Marcus Valerius*, and the like; whereof, among Latine Writers, you may find plentiful Examples.

Vacation, *Vacatio*. Is all the respective time betwixt the end of one Term and the beginning of another. When first times began and ended in our Ancestors days, see *Roger Hoveden's Annals*, part. poster. fol. 343. where you shall find that this intermission was called *Pax Dei & Ecclesie*. Also the time from the death of a Bishop, or other Spiritual Person, till the Bishoprick, or other Dignity, be supplied with another, is called *Vacation*, *Westm.* 1. cap. 21. & 14 E. 3. cap. 4. 5. See *Plenary*.

Vaccary or Wacchary, *Vaccharia* alias *Vacheria*, Is a House or Place to keep Cows in; *Fleta*, lib. 2. cap. 41. *sect.* Item inquirator 12. *Domus* sive locus quo vaccæ aluntur vel quo negotium quod ad eas pertinet, perficitur, saith *Spelman*. A Dairy-house without warrant no Subject may have a *vaccary* within the Forest, *Crompt. Jur.* fol. 194. But in the Stat. 37 H. 8. cap. 16. *Vacchary* seems to be a special Name of a certain compass of Ground within the Forest of *Afdown*.

Vaga. See *Waga*.

Vagabond, *Vagabundus*, Is one that wandreth about, having no certain dwelling, *Rogues*, *Vagabonds*, and *sturdy Beggars* are all one, and mentioned in divers Statutes, *De Vagabundis & aliis hominibus mendicantibus qui se nominant Travelling men*, &c. *Carta* 22 H. 6. m. 3. n. 96. Item utitur quod nullus Vagabundus vagetur seu deambulet de nocte in villa seu suburbio ejusdem post pulsationem campanæ nostræ communis, vocata *Coverfew*, &c. M. S. *Codex de Leg. & Statut. Burgi Villæ Montgomer à tempore Hen. 2.*

Valeat, *Valeat* or *Vadelect*, *Valeatus* vel *valesta*, Qui juxta Dominum Vadit seu ministrat. It is a French word: A Servitor or Gentleman of the Privy Chamber, according to *Camden*: In the Accounts of the *Inner-Temple*, it is used for a Benchers Clerk or Servant: The Butler of the House corruptly call them *Varlets*; In the *Register of Writs* 25. *Valeatus*. If the Sheriff be a *Vadelect* of the Crown, &c. Co. on Lit. fol. 156. *Valet* was anciently a Name specially denoting young Gentlemen, though of great Descent or Quality, but now given to those of the rank of Yeomen, *Selden's Titles of Honor*, fol. 831.

Value, *Valentia*, *Valor*; Is a known word, yet *West* in his *Symbol*. part 2. tit. *Inditements*, *sect.* 70. Nicely distinguishes between *Value* and *Price*, His words are these, The *value* of those things in which Offences are committed is usually comprised in *Inditements*, which seems necessary in *These* to make a difference from *Petit Larceny*, and in *Trespass* to aggravate the Fault, and increase the Fine: But no price of things *feræ naturæ* may be expressed, as of Deer, Hares, &c. if they be not in Parks and Warrens, which is a liberty, *Anno* 8 E. 4. fol. 5. nor of Charters of Land. And where the number of the things taken are to be expressed in the *Inditement*, as of young Doves in a Dove-house, young Hawkes in a Wood, there must be said (*pretii*) or (*ad valentiam*) but of divers dead things *ad valentiam*, and not *pretii*, of Coyn not currant, it shall be *pretii*; but of Coyn currant it shall neither be said *pretii* nor *ad valentiam*, for the *value* and *price* thereof is certain.

Value of Marriage, *Valore maritagii*, Is a Writ that lies for the Lord, having proffered covenable Marriage to the Infant, without disparagement, if he refuse to take the Lords offer, to recover the *value* of the Marriage, *Reg. Orig.* fol. 164. *Old Nat. Brev.* fol. 90. See *Palmer's Case*, Co. lib. 5. fol. 126. and the Statute 12 Car. 2. cap. 24.

Vantarius, *Præcursor*, As *Vantarius Regie*, the King's Fore-foot-man: *Richardus Rockeston* miles tenebat terras *Seatonix* per *Serjantiam esse Vantarium*.

tarium Regis in Gascoigne, donec perusus fuit pari soluturam pretii 4 d. i. dum trivisset par calceorum pretii 4 d. Rot. de finibus, Term. Mich. 2 Ed. 2.

Variance, Variatio, Signifies an alteration or change of condition after a thing done: As the Commonalty of a Town make a Composition with an Abbot, and after obtain Bayliffs by Grant from the King. In this case, if the Abbot commence any Suit for breach of the Composition, he must vary from the word (Commonalty) set down in the Composition, and use Bayliffs and Commonalty, Bro. tit. Variance, fol. 292. It is also used for an alteration of something formerly laid in a Plea. See Variance in the New Book of Entries.

Varlets, By a repealed Statute of 20 Rich. 2. cap. 2. were used for Yeomen or Yeomen-Servants. See Valets, and the Stat. 3 Car. 1. cap. 4. Will. Hunt Varlet del Chambre nostre Seigneur le Roy, Claus. 12 Rich. 2. M. 43. in Dorset. I suppose it miswritten for Valet.

Vasslet, Vassletum, Seems to signifie ward, as appears by a Par. 1 H. 3. in Dorset M. 13. Concordia inter Regem & Radulphum de Normanvil, viz. quod Rad. tenebit in servitio Regis Geroldum & Radulphum milites filios suos, quamdiu guerra sua duraverit, per sic, quod Rex ei remittat 200. Marcas quas debebant Regi Johanni de fine pro redemptione dicti Geroldi & per sic deberetur; Thomas filius dicti Radulphi Vassletus in custodia Regis, qui similiter morabatur in servitio Regis cum predictis Geroldo Radulpho fratribus suis.

Vassall, Vassallus, Signifies him that holds Land in Fee of his Lord, we call him more usually a Tenant in Fee, whereof some owe Fidelity and Service, and are called Vassalli Jurati. Skene de verbor. Signif. verb. Ligeantia, saith, That Vassallus is divided into Homologum & non Homologum. Homologus is he that sweareth Service with exception of a higher Lord, and non Homologus, is he that sweareth without exception, all one with Ligeus. And the same Author, verb. Vassallus, saith, That it is Vassallus quasi Bassallus, i. inferior socius, because the Vassall is inferior to his Master, and must serve and reverence him; and yet he is in a manner his Companion, because each of them is obliged to the other.

Wasto, Is a Writ that lies for the Heir against the Tenant for term of Life or of Years, for making Wast, or for him in the Reversion or Remainder, F. N. B. fol. 55. Reg. Orig. fol. 72. & 76. and Reg. Judic. fol. 17. 21, 23. & 69. Vide 6 E. 1. cap. 5.

Vavafor, alias Malvasor, Is one that in Dignities is next to a Baron, Camb. Brit. pag. 109. Bracon, lib. 1. cap. 8. says thus of them, — Sunt & alii potentes Rege, qui dicuntur Barones, hoc est, robur Belli: Sunt & alii qui dicuntur Vavafores, viri magnae dignitatis. Vavafor enim, nihil melius dici poterit quam vas sortitum ad valetudinem. And Cambd. pag. 188. says, Primis etiam Normanorum temporibus & Thani proximi a Comitibus in dignitate censebantur & Valvafores majores (si illis qui de feudis scribunt, credimus) iidem fuerunt Barones. See more largely of these in Spelman's Glossary.

Vavafory, Vavaforia, The Lands that a Vavafor held, — Quod dicitur de Baronía non est obser-

vandum in Vavaforia vel aliis minoribus feudis quam Baronía, quia caput non habent sicut Baronía, Bracon. lib. 2. cap. 39.

Weale money or Weale noble money, The Tenants of one of the Tythings within the Mannor of Bradford in Wiltshire, pay a yearly Rent by this Name to their Lord, the Marquels of Winchester, which is in lieu of weale paid formerly in kind.

Wejours, Visfores, May be derived from the French Voir, videre, intueri, are such as are sent by the Court to take view of any place in question, for the better decision of the Right, Old Nat. Brev. fol. 112. So likewise Bracon uses it, lib. 5. trañ. 3. cap. 8. It signifies also such as are sent to view those that Effoigne themselves de malo lesli, whether they be in truth so sick as they cannot appear, or whether they counterfeit, Bracon. lib. 5. trañ. 2. cap. 10. & 14. Lastly, It is used for those that are appointed to view an Offence, as a Man murdered, or a Virgin ravished. See View.

Wendition exponas, Is a Writ Judicial, directed to the Under-Sheriff, commanding him to sell Goods which he hath formerly by Commandment taken into his Hands, for the satisfying a Judgment given in the King's Court, Reg. Judic. fol. 33. and Anno 14 Car. 2. cap. 21.

Wenire facias, Is a Writ Judicial directed to the Under-Sheriff, and goeth out of the Record, and lies where two Parties plead, and come to Issue; for then the Party Plaintiff or Defendant shall have this Writ directed to the Sheriff, to cause twelve Men of the same County to say the truth upon the Issue taken. And if this Enquest come not at the day of the Writ returned, then shall go a Habeas Corpora, and after a Distress, until they come, Old Nat. Brev. fol. 157. See how diversly this Writ is used in the Table of the Register Judicial. There is also a Writ of this Name, that is Original, as appears in Reg. Orig. fol. 200. Which Lamb. in his Proceses annex'd to his Eirenarcha, says, Is the common Process upon any Presentment, not being Felony, nor specially appointed for the Fault presented by Statute, whereof he sets down an example in the same place. See also the New Book of Entries, verb. Enquest, fol. 253. and 35 H. 8. cap. 5.

Wenire facias tot matronas. See Venire inspiciendo, and Lamb. Eiren. lib. 4. cap. 14. pag. 532.

Wentre inspiciendo, Is a Writ for the search of a Woman that saith she is with Child, and thereby withholdeth Land from him that is next Heir at Law, Reg. Orig. fol. 227.

Venue or Wenew, Vicinetam alias Visnetam, Is taken for a Neighbouring place, Locum quem vicini habitant. For example, Twelve of the Assise ought to be of the same venue where the Demand is made, Old Nat. Brev. fol. 115. and Anno 4 Hen. 4. cap. 26. and 25 Hen. 8. cap. 6. And also shall return in every such Panel upon the Venire Facias six sufficient Hundreders at the least, if there be so many within the Hundred where the Venue lies. See Visne.

Werd.

Verd. See *Vert*.

Verderor, *Viridarius*, From the French *Verdeur*, i. *Custos nemoris*, Is a judicial Officer of the King's Forest, chosen by the King's Writ in the full County of the same Shire, within the Forest where he dwells, and is sworn to maintain and keep the Assises of the Forest; and to view, receive and enrol the Attachments and Presentments of all manner of Trespasses of Vert and Venison in the Forest, *Manwood*, part 1. pag. 332. His Office is properly to look to the Vert, and see it well maintained, *Crompt. Jur. fol. 165*. His Oath, Fee and Authority you may see in *Manwood*, part 1. pag. 51. He is to sit in the Court of Attachment, to see the Attachments of the Forest, to receive the same of the Foresters and Woodwards that present them, and then to enter them into their Rolls.

Verdict, *Verdictum quasi dictum veritatis*, Is the Answer of a Jury made upon any Cause civil or criminal committed by the Court to their Examination: And this is two-fold, *General* or *Special*; A *General Verdict* is that (*Stamf. Pl. Cor. lib. 3. cap. 9.*) which is given or brought into the Court in like general terms to the *general Issue*, as in an Action of Disseisin, the Defendant pleadeth, *No wrong, no Disseisin*; then the Issue is general, whether the Fact be a wrong or not, which being committed to the Jury, they upon consideration of their Evidence come in and say either for the Plaintiff, that it is a Wrong and Disseisin; or for the Defendant, that it is no wrong, no disseisin. A *special Verdict* is, when they say at large, that such a thing and such a thing they find to be done by the Defendant or Tenant so declaring the course of the Fact, as in their Opinion it is proved; and as to the Law upon the Fact, they pray the Judgment of the Court: And this *special Verdict*, if it contain any ample Declaration of the Cause from the beginning to the end, is also called a *Verdict at large*, whereof read Examples in *Stamf. ubi supra*, *New Book of Entries*, verb. *Verdict*, and *Co. on Lit. fol. 228*.

Veretum, According to *Doomsday Book* signifies Fallow-ground.

Verge, *Virgata*, May seem to come from the French *Verger*, *viridarium*, and is used here in England for the compass of the King's Court, which bounds the Jurisdiction of the Lord Steward of the King's Household, and of the Coroner of the King's House, and that seems to have been twelve Miles compass, *Anno 13 Rich. 2. stat. 1. cap. 3. F. N. B. fol. 24. Britton, fol. 68, 69. Co. Rep. lib. 4. fol. 47.* See also 33 H. 8. 12. *Fleta*, lib. 2. cap. 4. sect. 1. says, This compass about the Court is called *Virgata*, a *virga* quam *Marshallus* portat ut *signum sue potestatis*. *Verge* hath also another signification, and is for a Stick or Rod, whereby one is admitted Tenant, and holding it in his Hand, swears Fealty to the Lord of a Mannor, who for that cause is called *Tenant by the Verge*, *Old Nat. Brev. fol. 17. and Lit. lib. 1. cap. 10.*

Verge of Land, *Virgata terra*, 28 E. 1. Statute of Wards. See *Yard land*.

Vergers, *Virgatores*, Are such as carry white Wands before the Justices of either Bench, *Fleta*, lib. 2. cap. 38. Otherwise called *Portatores Virga*.

Very Lord and very Tenant, *Versus Dominus & versus Tenens*, Are they that be immediate Lord and Tenant one to the other, *Bra. tit. Hariot, fol. 23.* In the *Old Nat. Brev.* and in the Writ *Replegiari de averiis*, you may read these words. And know ye, That in taking of Leases six things are necessary, that is to say, *very Lord and very Tenant*, Service behind, the day of the taking, Seisin of the Services, and within his Fee. And that a Man is not *very Tenant*, until he have returned to the Lord by some Service. See 19 H. 7. cap. 15. And see *Tenant*.

Verr, *Viride*, Is made of the French *Verd*, *viridis*, Otherwise called *Green-bue*, signifies in the Forest Laws every thing that grows and bears green leaf within the Forest that may cover a Deer, *Manwood*, 2. par. fol. 6. & 33. And it is divided into *Over-vert* and *Netber-vert*. *Over-vert* is that which our Law Books call *Hault Bois* and *Netber-vert* is that which they call *South Bois*. And of this you may read *Manwood's* 2. par. cap. 6. per totum. There is also a *Vert* called *Special vert*, and that is all Trees that grow in the King's Woods within the Forest, and all the Trees that grow there in other mens Woods, if they be such Trees as bear Fruit to feed Deer; which are called *Special vert*, because the destroying of such *vert* is more grievously punished than the destruction of other *vert* is. See *Manwood*, cap. 6. num. 2. fol. 35.

Vervise, Otherwise called *Plonkets*, *Anno 1 R. 3. cap. 8.* a kind of Cloth.

Vessels, *Anno 1 R. 3. cap. 8. and 14. & 15 H. 8. cap. 11.* Otherwise called *Set-Clothes*, most commonly made in *Suffolk*.

Vest, Vestire, *Plenam possessionem terra vel pradii tradere, seisinam dare, infodare*, saith *Spelman*.

Vestrymen, *Anno 15 Car. 2. cap. 5.* Are a select number of the chief Parishioners in every Parish within the City of London and Suburbs, and else-where, who yearly choose Officers for the Parish, and take care of its Concernments; so called, because they usually meet in the *Vestry* of the Church.

Vesture, *Vestura*, Signifies a Garment, but in the Law, metaphorically turned to be-taken a Possession, or an admittance to a Possession or Seisin; so it is taken in *Westm. 2. cap. 25.* And in this signification 'tis borrowed of the *Feudists*, with whom *Investitura* signifies a delivery of Possession by a Spear or Staff, and *Vestura* Possession it self, *Hotman in verb. Feudal. verb. Investitura*.

Vesture of an Acre of Land, *Anno 14 E. 3. stat. 1.* Is the profit of it. So in *extenta Manerii*, 4 Ed. 1. It is inquirable, How much the Vesture of an Acre is worth, and how much the Land is worth when the Wood is telled.

Vetitum Pantium, *Namium*, Signifies a taking or distress, and *Vetitum* forbidden; as when the Bayliff of a Lord distrains Beasts or Goods, and the Lord forbids his Bayliff to deliver them when the Sheriff comes to Replevy them, and to that end drives them to places unknown; or when without any words they are so cloined, as they cannot be replevied, divers Lords of Hundreds and Courts Baron have

power to hold Plea *De vetito namio*, in old Books called *De vet.* 2. *Inst.* fol. 140. *Spelman* says it is, *Antiqua juris nostri locutio & brevis Regis nomen.* See *Naam.*

Wicario deliberando occasione cuiusdam Recognitionis, &c. Is a Writ that lies for a Spiritual Person imprisoned, upon forfeiture of a Recognizance, without the King's Writ, *Register of Writs*, fol. 147.

Wicis & denellis mundandis, Is a Writ that lies against a Mayor or Bayliffs of a Town, &c. for the clear keeping their Streets, *Reg. of Writs*, fol. 267.

Wicar, Vicarius, The Priest of every Parish is called *Rector*, unless the Prædial Tythes be impropriated, and then he is called *Vicar*, quasi *vice fungens rectoris.* *Sciunt*—quod ego *Johannes Webbe* perpetuus *Vicarius Ecclesie Parochialis de Bromyard*, dedi—*Domino David Hay* perpetuo *Vicario Ecclesie Parochialis de Anenebury* duas acras terre, &c. Dat. 8 H. 5. They stiled themselves *Perpetui vicarii*, because every *Vicaridge* hath a constant succession, as a Corporation, and never dies. *Quidam sunt Perpetui ad Parochiales Ecclesias constituti*; *Quidam non perpetui*, sed ad aliquos actus constituti, ut temporales; *et isti dicuntur mercenarii*: *Quidam sunt speciales*, non ad curam sed ad certum locum, articulum vel actum constituti: *Quidam nec perpetui*, nec ad curam, nec ad certum actum, sed generaliter dantur ad omnia. See *Vocab. utriusq. juris*, verb. *Vicarius*.

Wice-Chamberlain, Called *Under-Chamberlain*, 13 R. 2. stat. 2. cap. 1. Is a great Officer in Court next under the Lord Chamberlain, and in his absence hath the control and command of all Officers whatsoever appertaining to that part of his Majesty's Household, which is called *The Chamber*, or above stairs.

Wice-gerent, Locum-tenens, A Deputy or Lieutenant, Anno 31 H. 8. cap. 10.

Wice-Treasurer of the Exchequer, 1 Jac. 26. See *Under-Treasurer of England*, and see also *Treasurer of the Exchequer*.

Wicineturum. See *Venew*.

Wicinage, Vicinetum, French *Voisinage*, Neighborhood, near Dwelling, *Mag. Charta*, cap. 14. See *Venew*.

Wicount alias Wiscount, Viscomes, Signifies as much as *Sheriff*: Between which two words there is no other difference, but the one comes from our Conquerors the Normans, the other from our Ancestors the Saxons, of which see more in *Sheriff*. *Wiscount* also signifies a degree of Nobility next unto an Earl, which *Camden Brit.* pag. 170. says, Is an old Name of Office, but a new one of Dignity, never heard of among us till the Reign of Henry the Sixth, who in his Eighteenth year, in Parliament, created *John Lord Beaumont, Wiscount Beaumont*; But it is far more ancient in other Countries, *Cassan. in gloria mundi*, part. 5. confid. 55. See *Selden's Titles of Honor*, fol. 761.

Wicontiel, Is an Adjective made of *Wicount*, and signifies as much as belonging to the *Sheriff*; as *Writs vicontiel*, are such Writs as are tryable in the County, or Sheriffs Court, *Old Nat. Brev.* fol. 109. Of this kind you may see divers *Writs of Nuisance* set down by *Fitzherbert* in

his *Nat. Brev.* fol. 184. *Vicontiel, Vice-comitilia*, are certain *Fermes* which the *Sheriff* pays a Rent to the King, and makes what profit he can of them. See the Stat. 33 & 34 H. 8. cap. 16. 2 & 3 E. 6. cap. 4. 4 H. 5. cap. 2. 6 R. 2. cap. 3.

Wicontiel Rents, Mentioned 22 Car. 2.

cap. 6. See *Vicontiel*.

Widimus. See *Innotescimus*, Anno 15 H. 6. cap. 3.

Wiew, Visus, Signifies the Act of Viewers; for when an Action real or personal is brought, and the Tenant knows not well what Land it is that the Demandant asks, then may he pray the view; which is, that he may see the Land which is claimed; of this *Britton* writes, cap. 45. This course of proceeding we have received from the Normans, as appears by the *Grand Customary*, cap. 96. 80. & 96. This view is used as in other cases, so in an Assise of Rent-service, Rent-charge, or Rent-seck, *F. N. B.* fol. 178. and in a Writ *De Curia claudenda*. *Ibid.* fol. 128. In a Writ of Nuisance, *Ib.* fol. 183. In a Writ *Quo jure*, *Ib.* fol. 128. In the Writ *De rationabilibus divisis*, *Ib.* fol. 129. and in the Writ *De festis ad Molendinum*, *Ib.* 123. See the *New Book of Entries*, verb. *View*, and how this view is made in *Fleta*, lib. 4. cap. 6. See *Vejours*, and *Westm.* 2. cap. 48.

Wiew of Frank-pledge, Visus Franci plegii, Is the Office which the *Sheriff* in his County Court, or the Bayliff in his Hundred performs in looking to the King's Peace, and seeing that every man be in some Pledge. This is called by *Bracton*, lib. 2. cap. 5. num. 7. in fine, *Res quasi sacra*, quia solum personam Regis respicit & quod introductus sit pro pace & communi utilitate, *Ibid.* cap. 16. num. 8. See *Frank-pledge*, *Leet and Decennier*. Also see the *New Book of Entries* on this word.

Wili laica remobenda, Is a Writ that lies where debate is between two Parsons or Providers for a Church, and one of them enters into it with a great number and Lay-men, and holds the other out *vi & armis*: He that is holden out shall have this Writ directed to the *Sheriff*, that he remove the force. And this Writ is returnable, and shall not be granted, until the Bishop of the Diocese, where such Church is, hath certified into the Chancery such resisting and force. For the several forms of this Writ, see *F. N. B.* fol. 54. and *Reg. Orig.* fol. 59.

Wigill, Vigilia, Is used for the Eve or day next before any Solemn Feast, because then Christians of old were wont to watch, fast and pray in their Churches. See Anno 2 & 3 E. 6. cap. 19.

Will, Villa, Is sometimes taken for a Manor, and sometimes for a Parish, or part of it. *Villa apud Saxones nostros antiquos Romano sensu accipi videtur, pro pradio unius alicujus in rure, cum idoneis adibus ad reponendos ejusdem fructus honestato.* Non autem prius pro multarum mansionum connexione, quod in oppidis potius expectandum esset & successivis temporibus villis postea introductum est, *Spelman.* Will and Parish shall be intended all one, *Cro. Rep.* 2. par. fol. 263. *Wraye's Case*, yet there may be two Villis in one Parish, *Id.* fol. 120. *Storke's Case*.

Willaine, Villanus, Signifies as much as *Servus* among the *Civilians*. A man of servile or base degree, from the French *Vilain, vilis*, or from the Latine *villa*, a Country Farm, whereto they were

were deputed to do Service : Of these Bondmen or Villains there were two sorts in England, one termed a Villain in gross, who was immediately bound to the person of his Lord and his Heirs. The other a Villain regardant to a Mannor, whom the Civilians term, *Glebe ascriptitium*, being bound to his Lord as a Member belonging and annexed to a Mannor, whereof the Lord was Owner, *Smith de Rep. Anglor. lib. 3. cap. 8. Old Nat. Brev. fol. 8. and Bracton, lib. 1. cap. 6. num. 4.* He was properly a pure Villain, of whom the Lord took Redemption to marry his Daughter, and to make him free; and whom the Lord might put out of his Lands and Tenements, Goods and Chattels, at his will, and Beat and Chastise, but not Maim him. There are not truly any Villains now, though the Law concerning them stands unrepealed. We have hardly heard of any Case in Villenage since *Crouche's Case* in *Dyer*. And *Spelman* says, *Servorum & Nativorum apud nos sublata est conditio, & quas idem possidebant terras vel pradia, hodie liberè tenent sub antiqua servitutis consuetudinibus.*

Villanis Regis subtrahitis reducendis, Is a Writ that lay for the bringing back of the King's Bondmen, that had been carried away by others out of his Mannors, whereto they belonged, *Reg. Orig. fol. 87.*

Villain Fleeces, Are fleeces of Wool that are shorn from scabbed Sheep, 31 E. 3. cap. 8.

Villainous Judgment, *Villanum judicium*, Is that which casts the Reproach of Villany and Shame upon him against whom it is given as a Conspirator, &c. *Stamf. Pl. Cor. lib. 3. cap. 3. cap. 12. fol. 175.* This Lamb. in his *Eirenarch. lib. 1. cap. 13. pag. 63.* calls Villainous Punishment, and says, It may be well call'd Villainous, because the Judgment in such case shall be like the ancient Judgment in Attaint, as is said, *Anno 4 H. 5. Fitzh. Judgment 220.* And in 27. Lib. Ass. Pl. 59. set down to be, That they shall not be of any Credit afterward, nor lawful for them in Person to approach the King's Court, and that their Lands and Goods be seized into the King's Hands, their Trees rooted up, and their Bodies imprisoned, &c. And at this Day the Punishment appointed for Perjury (having somewhat more in it than Corporal or Pecuniary pain, stretching to the discrediting the Testimony of the Offender for ever) may be partaker of this Name. This, and such like is else-where termed *Vile & odibile judicium*. Vide *Pillory*.

Villenage, *Villenagium*, Cometh of Villain, and signifies a Servile kind of Tenure belonging to Lands or Tenements, whereby the Tenant was bound to do all such Services as the Lord commanded, or were fit for a Villain to do; For every one that held in Villenage, was not a Villain or Bondman : *Villenagium vel servitium nihil detrahit libertatis, habita tamen distinctione, utrum tales sunt Villani & tenuerint in Villano soccagio de Dominico Domini Regis*, *Bract. lib. 1. cap. 6. num. 1.* The division of Villenage was into villenage by Blood, and villenage by Tenure. Tenure in villenage could make no Freeman Villain, unless it were continued time out of Mind, nor free Land make a Villain free. *Bracton, lib. 2. cap. 8. num. 3.* divides it into *Purum villenagium*, à quo

praestatur servitium incertum & indeterminatum ubi scire non poterit vespere, quale servitium fieri debet manere, viz. ubi quis facere tenetur quicquid ei praeceptum fuerit; The other he calls *Villanum soccagium*, and was tyed to the performance of certain Services agreed upon between the Lord and Tenant, and was to carry the Lord's Dung into his Fields, to plough his Grounds at certain days, to reap his Corn, plash his Hedges, &c. As the Inhabitants of *Bickon* were bound to do for those of *Clun Castle* in *Shropshire*, which was afterwards turned into a Rent, now called *Brickton-Silver*, and the Service excused. *Will. Maynard* qui tenuit terras in *Hevill* cognoscit se esse Villanum Abbatis de *Abendon* & tenere de eo in Villenagio, & per Villanas consuetudines, viz. per servitium 18 d. per annum & dandi Maritagium & Marchetum pro filia & sorore sua, ad voluntatem ipsius Abbatis & faciendi omnes Villenas consuetudines. Copy-holders is but a new Name, for anciently they were called Tenants in villenage, or, of base Tenure, *F. N. B. fol. 28.* But the slavery of this Custom hath received its Deaths Wound, in favour of libertati: For *Sir Edward Coke* out of *Fortescue* hath this Note, *Impius & crudelis judicandus qui libertati non fovet*; And gives this as the reason of it, *Angliae jura in omni casu dant favorem libertati*; The sense of Liberty was of so great force and power, and the favour due unto it according to Law and Right of so great respect, that those and the like Pressures have received change and alteration.

Vinner, A kind of Flower or Border, which Printers use, to beautifie printed Leaves in the beginning of Books. See *Anno 14 Car. 2. cap. 33.*

Virgata terre, Otherwise *Virga terra*, A Yard-land, *Reg. Orig. fol. 167.* *Decem virga terrae faciunt secundum antiquam consuetudinem, unam ferdellam, & quatuor ferdella faciunt virgatam*, *M. S. Codex.* See *Yard land*.

Writario eligendo, Is a Writ that lies for the Choice of a Verderor in the Forest, *Reg. Orig. fol. 177.*

Virilia, The privy parts of a Man, the cutting off, which was Felony by the Common-Law, whether the Party consented or not, *Bract. lib. 3. fol. 44.* *Henricus Hall & A. uxor ejus capti & detenti in Prisona de Evilechester, eo quod rellati fuerint, quod ipsi obsiderunt virilia Johannis Monachi, quem idem Henricus deprehendit cum praedicta A. uxore ejus*, *Rot. Claus. 13 H. 3. m. 9.*

Virga ferrea, --- *Sciant, &c. Quod ego Hamundus viri dedi, &c. Nich. filio Edde pro 8 s. sterlingis quos mihi dedit praemanibus, unam placetam terre meae in vico versus Dufteles, quae jacet inter terram meam & terram Philippi filii Heylin, cujus latitudo in fronte continet in se 16. Virgas ferreas prater unum quarterium & totidem à retro, &c.* *Ex libr. Cart. Prior. Leominstr.* This was so many yards according to the King's Standard in the Exchequer, which anciently it seems was of Iron, but now of Brass.

Vis, Force; So we say, *Vi & armis*, By force of Arms, and this force is five-fold, viz *impulsiva, ablativa, expulsiva, turbativa & inquietativa*: *vis ablativa* is the taking away of moveable things: And hence accrues an Action, *quare vi & armis*, &c. *Vis compulsiva*, by which a man is compelled to do that which otherwise he would not do of his own free will. And from this also

accrues an Action; *Vn expulſiva* is, when any one is caſt out of his Poſſeſſion by Force and Arms. *Vn turbativa* is, when any one is diſturbed in his Poſſeſſion, as when two ſtrive to poſſeſs the ſame thing. *Vn inquietativa* is, when one Man will not ſuffer another quietly to enjoy his Right, or to do a thing in his own Bounds or Limits. And from all theſe, ſome ſort of Action will ariſe.

Viſitation, *Viſitatio*. Is that Office or Action that is performed by a Biſhop in every Dioceſs once every three years, or by the Archdeacon once a year, by viſiting the Churches and their Rectors, &c.

Viſitation of Panners, *Viſitatio morum*, Was wont to be the Name of the Regarders Office in ancient time, *Manwood*, part 1. pag. 195. See *Regarder*.

Viſne, *Vicinetum*, Signifies a Neighbour-place, or a place near at hand, *Anno 16 R. 2. cap. 6. Dicitur Vicinetum, in iure noſtro locus quem vicini habitant, qui olim intelligebantur de eadem villa ſive ad jacentibus atq; alius de eodem Hundredo vel proximis; modo vero de eodem pago, ſive Comitatu, hoc eſt compagenſe.* *Spelman*, ſee *Venero*.

Viſu Franci plegii, Is a Writ to exempt him from coming to the view of Frank-pledge, who is not reſident within the Hundred; for Men are bound to this view, by reaſon of their Habitation, and not of Lands held where they dwell not, *Reg. Orig. fol. 175.*

Viſteler or **Viſtualer**, *Vitularius* or *Vitellarius*, Is he that ſells Viſtuals; for whom there is a Writ in *F.N.B. fol. 172.* If they exerciſe their Trade, bearing a Magiſtracy in any Town Corporate. We call now all Common Alehouſe-Keepers generally by the name of *Viſtualers*.

Vitba pecunia, Anciently uſed for live Cattel. See *Pecunia*.

Vitba voce. See *Depoſition*.

Vitbary, *Vivarium*, Signifies a place of Land or Water, where living Creatures are kept. In Law it ſignifies moſt commonly a Park, Warren, Fiſh pond or Piſcary, *Co. 2. Inſt. fol. 100.*

Vitlage. See *Alnage*.

Vitroze priſt, Is a Plea for the Defendant, being ſued for a Debt due at a day paſt, to ſave the forfeiture of his Bond, ſaying, That he tendered the Debt at the time and place, and that there was none to receive, and that he is ſtill ready to pay the ſame, *7 E. 6. 6. 83. Dyer*. See *Vitroze Priſt*. See alſo *Perkins*, ſect. 783, 784. and *Co. lib. 9. fol. 79. Peytor's Caſe*.

Vituth, Is a Saxon word ſignifying as much as *Incognitus*, unknown, and is uſed in the old Saxon Laws for him that cometh to an Inn Gueſt-wiſe, and lies but one Night. In ſuch caſe his Hoſt was not bound to anſwer for any Offence that he committed, whereof he was guiltleſs himſelf; but if he lay there a ſecond Night, then he was called *Gueſt*, *Hoſpes*, and then muſt the Hoſt anſwer for him, as for one of his own Family. And if he tarried any longer, then he was called *Ageneſhine*, that is, *Familiaris*, whom if he offend againſt the King's Peace, his Hoſt was to ſee him forth-coming; or if he could not bring him out within a Month and a day, he muſt ſa-

tiſfie for his Offences; *Lamb. Archæon, fol. 133. num. 7.* And *Bracton, lib. 3. cap. 10. num. 2.* writes thus of the ſame, *Item ſecundum antiquam conſuetudinem dici poterit de familia alicujus qui Hoſpes fuerit cum alio per tres noctes; quia prima nocte poterit dici Vituth; ſecunda vero, Guſt, tertia nocte Hogeneſhine.* See *Third-night-awneſhine*.

Vitde nihil habet, Is a Writ, concerning which, ſee *Date unde nihil habet*.

Vitde Chamberlain of the Exchequer, Is an Officer there that cleaves the Tallies, written by the Clerk of the Tallies, and reads the ſame, that the Clerk of the Pell, and the Controllers thereof may ſee their Entries be true. He alſo makes Searches for all Records in the Treasury, and hath the Cuſtody of *Doomſday Book*. There be two Officers there of this Name.

Vitde Eſcheator, *Subeſcheator*, *Anno 5 Ed. 3. cap. 4.* See *Eſcheator*.

Vitde Sheriſſ, *Sub-vicecomes*. See *Sheriſſ*.

Vitderſtiter, Is an Inmate. See *Inmate*.

Vitdertakers, Were ſuch as the King's Purveyors employed as their Deputies, *Anno 2 & 3 Ph. & Mar. cap. 6.* And ſuch as undertake any great Work, as drayning of Fens, &c. *Anno 43 Eliz. cap. 11.* See *12 Car. 2. cap. 24. 13 Car. 2. cap. 8. 14 Car. 2. cap. 20.*

Vitde Treasurer of England, *Vice-theſaurarius Anglia*, *Anno 39 Eliz. 7.* This Officer, as ſome think, was firſt created in the time of *Henry the Seventh*, to Cheſt up the King's Treasurie at the end of every Term, and to note the content of Money in each Cheſt, and to ſee it carried into the King's Treasury in the Tower, for the eaſe of the Lord Treasurer, as being a thing too mean for him to be troubled with, and yet fit to be performed by a Man of great Secrecy and Truſt. He, in the vacancy of the Lord Treasurers Office, doth all things in the Receit, &c. But this Officer, in the Opinion of others, is far more ancient. Yet named *Treasurer of the Exchequer* in the Statute till *Queen Elizabeth's* time, where he is termed *Under-Treasurer of England*. Yet *Anno 35 Eliz.* he is alſo written *Treasurer of the Exchequer*; Read the Statutes *8 E. 3. ſtat. 2. cap. 17. 27 E. 3. ſtat. 2. cap. 18. 1 Rich. 2. cap. 5. 4 H. 4. cap. 18. 8 H. 6. cap. 17. 27 H. 8. cap. 11.*

Vitformity, *Uniformitas*, One form of Publick Prayers and Adminiſtration of Sacraments, and other Rites and Ceremonies of the Church of England, to which all muſt ſubmit; preſcribed by the Statutes, *1 Eliz. cap. 2. and 14 Car. 2. cap. 4.*

Vitunion, *Unio*, Is a combining or conſolidating of two Churches into one, which is done by the conſent of the Biſhop, the Patron, and the Incumbent: But there are two other ſorts of it, as when one Church is made ſubject to the other, and when one Man is made Rector of both, and when a Conventual is made Cathedral, as you may read in the Chapter *Licet de Locato & conducto*, in *Linwood's Provincials*, ſect. 4. *quia*. In the firſt ſignification by the Statute *37 H. 8. cap. 21.* It was made lawfull to make an union, or conſo-

consolidation of two Churches in one; whereof the one is not above six pounds in the King's Book of the First-Fruits, and not above one mile distant from the other. And by another Statute made 17 Car. 2. cap. 3. It shall be lawful for the Bishop of the Diocese, Mayor, Bayliff, &c. of any City or Corporate Town, and the Patron or Patrons to unite two Churches or Chappels in any such City, Town, or the Liberties thereof: Provided such union shall not be good, if the Churches so united exceed the sum of one hundred pounds per annum, unless the Parishioners desire otherwise, &c.

Unity of Possession, *Unitas possessionis*, Is called *Consolidatio fructus & proprietatis* in the Civil Law, and signifies Joynt Possession of two Rights by several Titles: As for example, If I take a Lease of Land from One upon a certain Rent, and afterwards I buy the Fee simple; this is an unity of Possession, by which the Lease is extinguished, by reason that I, which before had the Occupation only for my Rent, am become Lord of the same, and am to pay my Rent to none but my self.

University, *Universitas*, Is most usually taken for those two Bodies which are the Nurseries of Learning and liberal Sciences in this Kingdom, viz. Oxford and Cambridge, endowed with great Priviledges, as appears not only by Anno 2 & 3 R. 2. M. cap. 15. 13 Eliz. cap. 21. 18 Eliz. 6. but much more by their several Charters granted by divers Pious and Munificent Kings of this Land. See 14 Car. 2. cap. 4.

Wulage, A Saxon word denoting a wicked or unjust Law, in which sense the word is read in Leg. Hen. 1. cap. 34. 84.

Unlawful Assembly, *Illicita Congregatio*, Is the meeting of three or more Persons together, by force, to commit some unlawful Act, and abiding together, though not endeavouring the Execution of it, as to assault or beat any Person, to enter into his House or Land, &c. *West Symbol. part 2. tit. Inditement, sect. 65. Lamb. Eiren. cap. 19.* And by the Statute of 16 Car. 2. cap. 4. and 22 Car. 2. cap. 1. If five Persons, or more, shall be assembled together, above those of the Family, at any Conventicle or Meeting, under colour of any exercise of Religion, it is unlawful, and punishable by Fines, and otherwise, as in the said Statute is expressed.

Unques prift, *Alwayes ready*, Is a Plea whereby a Man professeth himself *alwayes ready* to do or perform that which the Demandant requires. For example, A Woman sues the Tenant for her Dower, and he coming in at the day, offers to aver, That he was *alwayes ready*, and still is to perform it. In this case, except the Demandant will aver the contrary, he shall recover no Damages: When this Plea will serve to avoid Charges, and when not, see *Kitchin, fol. 243.* See *Uncore prift.*

Uppdance, *Vacatio*, Is a want of an Incumbent upon a Benefice, and this is double, either *in Law*, as when a Man hath more Benefices incompatible; or *in Deed*, as when the Incumbent is dead, or actually deprived, *Bro. tit. Quare Impedit, num. 51.*

Uolumus, Is the first word of a Clause in

the King's Writs of Protection and Letters Patent, Anno 1 Rich. 2. cap. 8. and 13 Rich. 2. cap. 16. Of Protections, some are *Cum clausula volunus*, and of these there are four kinds, viz. 1. *Quia Prius fecimus.* 2. *Quia Moriamur.* 3. *Quia indebitatus nobis existit.* 4. When any one sent into the King's Service beyond Sea in War, is imprisoned, &c. on Lit. sect. 199.

Uolunt, *Voluntas*, Is, when the Tenant holds at the will of the Lessor, or Lord, and that is in two manners; one is, when I make a Lease to a Man of Lands, to hold at my will, then I may put him out at my pleasure, but if he sow the Ground, and I put him out, then he shall have his Corn with egress and regress till it be ripe to cut, and carry it out of the Ground. And such Tenant at will is not bound to sustain and repair the House as Tenant for years is. But if he make wilful waste, the Lessor shall have against him an Action of Trespass. The other Tenant at will of the Lord is, by Copy of Court Roll, according to the Custom of the Mannor; and such a Tenant may surrender the Land into the hands of the Lord, according to the Custome, to the use of another for life; in fee; or in tail; and then he shall take the Land of the Lord, or his Steward, by Copy, and shall make Fine to the Lord.

Voucher, *Vocans*, Is *vocabulum artis*, and signifies when the Tenant calls another into the Court, that is bound to him to warranty, *New Book of Entries, verb. Voucher; Voucher de Garranty, Brit. cap. 75.* And that is either to defend the Right against the Demandant, or to yield him other Lands, &c. in value and extend to Lands or Tenements of Free-hold or Inheritance: He that *voucheth* is called *Voucher, (vocans)* and he that is called *Voucher, (Warrantus)*. *Bracton* writes of this at large, lib. 5. tract. 4. per totum. And *Littleton* in his Tenures, cap. ult. also *F. N. B. fol. 134.* And this seems in some measure to agree to the contract in the Civil Law, whereby the Vendee bindeth the Vendor, sometimes in the simple value of the things bought, sometime in the double, to warrant the secure enjoying the thing bought; yet there is this difference between the Civil and the Common Law, that the Civil Law binds every Man to warrant the security of that which he selleth, which the Common Law doth not, except it be specially covenanted. The Process whereby the *Vouchee* is called, is a *Summons ad warrantifandum*. And if the Sheriff return upon that Writ, that the Party hath nothing whereby he may be summoned, then goes out another Writ called *Sequatur sub suo periculo*. See *Lamb. Explic. of Saxon words, verb. Advocare.* A Recovery with a single *Voucher*, is, when there is but one *Voucher*: And with a double *Voucher*, is, when the *Vouchee* voucheth over, and so a treble *voucher*. There is also a Foreign *voucher*, when the Tenant being impleaded in a particular Jurisdiction, as in London, or the like; *voucheth* one to warranty, and prays, that he may be summoned in some other County, out of the Jurisdiction of that Court, which might more aptly be called a *Voucher* of a Foreigner. *De forinfectis vocatis ad warrantifandum*, Co. on Lit. fol. 101. also *Co. Rep. 2. fol. 50.* Sir Hugh Cholmely's Case. *Voucher* is also used in the Statute 19 Car. 2. cap. 1. for a Leiger Book, or Book of Account, wherein are

entred the Acquittances or Warrants for the Accountants Discharge.

Upland, Uplanda, High ground, or as some call it *Terra firma*, contrary to Moorish, Marsh or Low Ground, --- *Duramq, terram novem Miliaris per aquam, de uplanda, id est de superiori terra, scapbis deferri & paludibus commiseri jussit*, Ingulph. Hist. Croyland.

Ulage. See *Prescription*.

Use, Ufus, In the Original signification is evident enough, but it hath also a Proper Application in Law, and that is the profit or benefit of Lands or Tenements, *West Symbol. lib. 1. f. 48, 49, 50, 51, 52.* Every Deed consists of two principal parts, namely, the *Premises* and the *Consequents*; the *Premises* is the former part thereof, being all that which precedeth the *Habendum* or Limitation of the Estate, which are the persons contracting, and the things contracted. The *Consequent* is that which follows the *Premises*, and that is the *Habendum*, in which are two Limitations; The one of the Estate or Property, which the Party passive shall receive by the Deed: The other of the *Use*, which is to express in the said *Habendum* to or for what use and benefit he shall have the same Estate, and of the limitation of such *uses*, many Presidents are set down: In the same *West Symbol. part 1. lib. 2. f. 308. & 327.* These *uses* were invented upon the Statute of *Westm. 3. Quia emptores terrarum*, before which Statute no such *uses* were known, *Perkin's Devises* 528. And because in time many Deceits were invented, by settling the Possession in one Man, and the *use* in another; to avoid which, and divers other Mischiefs and Inconveniences, was the Statute 27 H. 8. cap. 10. provided, which unites the *use* and Possession together. See *Co. lib. 3. Chudley's Case, fol. 121.*

Uter de Action, Is the pursuing or bringing an *Action*, which in what Place and County it ought to be, See *Bro. tit. Lien & County, fol. 64.*

Uter, Ostiarius, From the French *Huissier*, A Door-keeper of a Court; Is an Officer in the Exchequer, of which sort there are four that attend the chief Officers and Barons at the Court at *Westminster*, and *Juries*, *Sheriffs*, and all other Accountants, at the pleasure of the Court. There are also *Uters* in the King's House, as of the *Privy-Chamber*, &c. See *Black-Rod*.

Utiat, In Privilegio de Semplingham—*sint quieti tam ipsi quam homines eorum, &c. de omnibus misericordis & amerciamenis & forisfacturis, &c. & de murthero, & Larrocinio, & conceiles, & Utiat, & Hamsoka, Grittbrech, &c.* In *Kelway's Reports* it is written *Putlatch*.

Usucaption, Usucaptio, The enjoying a thing by continuance of time, or receiving the Profits, long Possession or Prescription.

Usufructuary, Usufructuarius, One that hath the *use*, and reaps the profit of any thing.

Usury, Usura, Is the gain of any thing above the Principal, or that which was lent, exacted only in consideration of the Loan, be it as well Corn, Apparel, Wares, or such like, as Money. And it is derived *ab usu & ere, quasi usu era, id est usus eris, & Usura est commodum certum quod propter usum rei mutuatæ accipitur*, *Co. 5. Rep.*

Payton's Case. The Statute 13 Eliz. cap. 8. alloweth not *usury*, but punisheth the excess of it. And that of 21 Jac. cap. 17. expressly Ordains, That no word in that Law shall be construed and expounded to allow the practice of *usury* in point of Religion or Conscience. And by the Statute 12 Car. 2. cap. 13. No man must take above six pound for the forbearance of one hundred pounds for a year, under the penalties therein contained. See *Co. 3. Inst. fol. 151.* By the Stat. 3 & 11 H. 7. It is called *Dry Exchange*.

Utas, Oltava, Is the eighth day following any Term or Feast, as the *Utas* of *St. Michael*, the *Utas* of *St. Hilary*, the *Utas* of *St. John Baptist*, &c. As you may read 51 Hen. 3. concerning general days in the Bench; and any day between the Feast and the *Oltave*, is said to be within the *Utas*. The use of this is in the return of Writs; as appears by that Statute. At the *Utas* of the Holy Trinity, Preamble to the Statute 43 E. 3.

Utensil, Utensile, Any thing necessary for our Use and Occupation; Householdstuff.

Utsangthes, That is; Fur extra captus, scilicet, *extra Dominium vel jurisdictionem*, Is an ancient Privilege or Royalty granted to a Lord of a Mannor, by the King, which gives him power to punish a Thief dwelling out of his Liberty, and committing Theft without the same, if he be taken within his Fee, *Bracton, lib. 2. tract. 2. cap. 35.* says thus, *Utsangthes dicitur extraneus latro, veniens aliunde, de terra aliena & qui captus fuit in terra ipsius qui tales habet libertates.* See *Utsangthes*.

Utlagh, Uthlagus, An Outlaw, signifies *Bannitum extra legem, Fleta, lib. 1. cap. 47.* And in *Mon. Ang. 2. par. fol. 618.* we read *Fuit quidam Uthlagus famosissimus partes istas frequentans propter uer commentium inter Nottingham & Derby per forestam.* See *Outlaw*.

Utlagato capiendo quando utlagatur in uno comitatu & postea fugit in alium, Is a Writ, the nature whereof is sufficiently expressed by the name. See *Reg. Orig. fol. 133.*

Utland, Terra extra dicebatur terra servilis seu tenementalis, quod de prociñtu terrarum Dominicalium qua Inland nuncupata sunt, in exteriorem agrum rejiciebantur. Vide *Inland*.

Utlary or Utlawry, Utlagaria vel utlagatio, Is a punishment for such as being called into Law, and lawfully fought, do contemptuously refuse to appear, after an *Original Writ* with a *Nihil habet*, three Writs of *Capias*, *Alias* & *Pluries*, returned by the Sheriff *Non est inventus*, and an *Exigent* with a *Proclamation* thereupon awarded. And *Bracton* says, He must be called at five Counties, a Month being between every County, *lib. 3. tract. 2. cap. 11.* And if he appear not within that time *pro exlege tenebitur, cum Principi non obediat nec legi & extunc utlagabitur*; that is, he shall be pronounced out of the King's Protection, and deprived of the benefit of the Law. The effect of this is divers; for if he be Outlawed at the Suit of another in a Civil Cause, he shall forfeit all his Goods and Chattels to the King; If upon Felony, then he shall forfeit all his Lands and Tenements.

ments which he hath in Fee, or for Life, and his Goods and Chattels; *Et tunc gerit caput lupinum, ita quod sine judiciali inquisitione rite pereat & secundum suum iudicium portet, & merito sine lege pereat, qui secundum legem vivere recusavit, &c.* Bract. lib. 3. tract. 2. cap. 11. And the same lib. 3. tract. 2. cap. 14. And *Fleta*, lib. 1. cap. 27, 28. say, A Minor or Woman cannot be Outlawed: For where a Man is said to be Outlawed, a Woman is termed *waived*, *F. N. B. fol. 161.* How an Outlaw is *inlawed* again, and restored to the King's Peace and Protection. See *Bracton*, and *Fleta*, *ubi supra*.

Waife, *Significat escapium, hoc est, evasionem latronum*, *Fleta*, lib. 1. cap. 47. and 18 Hen. 6. Par. 2. m. 22.

Warrum. See *Affise*.

Utter Barristers, *Juris consulti*, Are such, who for their long study, and great industry bestowed upon the Knowledge of the Common Law, be called from their Contemplation to Practice, and in the face of the World, to take upon them the Protection and Defence of Clients; These in other Countries are called *Licentiatii in jure*. The time before any one ought to be called to the Bar by the ancient Orders, was heretofore eight years, now reduced to seven, and the Exercises done by him (if he were not called *Ex gratia*) was twelve *Grand Moats* performed in the Inns of Chancery in the time of the Grand Readings, and twenty four *petty Moats* at the Inns of Chancery in the Term times, before the Readers of the respective Inns of Chancery. A Barrister, newly called is to attend the six next long Vacations the Exercise of the House, viz. in *Lent* and *Summer*, and is therefore for those three years called a *Vacation Barrister*. And they are called *Utter Barristers*, i. Pleaders without the Bar, to distinguish them from Benchers, or those who have been Readers, who are sometimes admitted to plead within the Bar, as the King, Queen, or Princes Council are.

W.

Wafors, *Wafiores*, Edward the Fourth Constituted a Triumvirate of Officers with Naval Power, whom the Patent, 22 E. 4. membr. 2. styles *Custodes*, *Conductores* and *Wafiores*; and these were chiefly to guard our Fishermen on the Coast of *Norfolk* and *Suffolk*. We still retain the word to *waft over*, that is, to conduct or convey over Sea.

Waga alias *Waga*, A *weigh*, which is a measure of Cheese, Wooll, &c. containing two hundred fifty six pound of *Averdupois*: For by the Statute 9 H. 6. cap. 8. a *weigh of Cheese* ought to contain thirty two Cloves, and each Clove eight pound, though some say but seven; *Unam wagam salis de salinis suis de Terinton*. Mon. Ang. 1. par. fol. 515. See *Weigh*.

Wage, *Vadiare*, From the French *Gager*, *dare pignus*; Signifies the giving Security for the performance of any thing; as to *wage Delivrance*, which see in *Gage*, to *wage Law*. See in *Law*. None *wages Law* against the King, *Bro. tit. Chose*

in *Alison*, num. 9. See *Co. on Lit. fol. 294. tit. Lay-gager*.

Wager of Law. See *Law*.

Waife or *Weyfe*, *Wavium*, Goods *waived* are such as a Thief having feloniously stolen, and being newly followed with *Hue-and-Cry* or else over-charged with the burden or trouble of the Goods; for his own Ease, and more speedy Flight, flies away, and leaves the Goods behind him; then the King's Officer, or the Bailiff of the Lord of the Mannor (within whose Jurisdiction they be left) who by Prescription, or Grant from the King, hath the Franchise of *waife*, may seize the Goods so *waived* to his Lord's use, except the Owner come with fresh Suit after the Felon, and sue an Appeal within a year and a day, or give Evidence against him at his Arraignment, and he be attainted, &c. In which cases the first Owner shall have restitution of his Goods so stolen and *waived*. And though *waife* is properly spoken of Goods stolen, yet it may be also of Goods not stolen: As if a man be pursued with *Hue-and-Cry* as a Felon, and he flies, and leaves his own Goods; these shall be forfeit as Goods stolen, and are properly called *Fugitives Goods*, which are not forfeited, till it be found before the Coroner, or otherwise of Record, that he fled for Felony. A thing *pro derelicto habita*, *waived* and forsaken is nullius in bonis. See 29 E. 3. *Waifes*, things lost and Estrayes, must by the Lord of the Franchise where they are found, be caused to be cryed and published in Markets and Churches near about, else the year and day does not run to the prejudice of the Loser, *Britton*, cap. 17. And further, *Inter Plac. coram Joh. de Berewell & sociis suis Justic. Itin. apud Salop. in Oñab. Sancti Michaelis*, 20 E. 1. Rot. 29. in Dorso. *Richardus filius Alani comes Arundell summocitus fuit ad respondend. Domino Regi de placito quo warranto clamat habere placita Coronæ & habere Waife de Manerio suo de Upton subus Hawman, &c. in Com. Salop & comes dicit quod ipse clamat habere Infangenethes & Waife. & eadem placita & libertates habuerunt ipse & omnes antecessores sui & eisdem ut sunt à tempore, quo non extat memoria & eo warranto clamat, &c.* Et *Hugo de Lowther* qui sequitur pro Domino Rege dicit, quod *waife* est quoddam grossum de Coronæ, ita Coronæ Domini Regis annexum quod nullus eo gaudere possit, nisi inde habeat speciale warrantum à Domino Rege vel antecessoribus suis concessum.

Wainable, That may be ploughed or manured, tillable, --- *Dedimus, &c. in loco qui vocatur Shiplade la Moren & la terre wainable & la Bruere, &c.* Carta Rogeri de scales sine dat.

Wainage, *Wainagium*, May be derived from the Saxon *Wan*, id est, *Plaustrum*. And any others *Willain* than ours shall be amerced saving his *Wainge*, if he fall into our *Merch*. Mag. Cart. cap. 14. Sir *Edward Coke*, 2. par. Inst. fol. 28. says, It signifies the countenance of a Villain; but why not rather the furniture of his Cart or Waine. See *Gainage* and *Wannage*.

Waitefee, *Tho. Spelman filius Johannis, &c. dicitur tenuisse Manerium de Narborough, cum tertia parte advocacionis Ecclesie, &c. de Domina* Z z z Regina

Regina ut de Manerio suo de Wingrave per servitium militare & per redditum 14 s. pro waitefee & Castlegarde & walei clare per annum 34 li. 17 s. 10 d. quadrant. Patet in Schedula liberationis Job. Spelman fratris sui, 7. Aug. 5. Eliz. This might probably be a Fee to excuse his waiting at the Castle.

Waite, Waiware, Is to forsake, *Reg. Orig.* 277. The Civilians term it *Habere pro derelicto*, and so *Waiware* *seu* *seu* *seu* signifies. To waive the Company of Theeves, *Stamf. Pl. Cor. fol. 26.* But this word properly belongs to a Woman, who is said to be waived, as a Man to be Outlawed, *Reg. Orig. fol. 132.* Many of the Kings Liege People Outlawed, and many Waived by erroneous Process, *Anno 7 H. 4. cap. 13.* See *Vitry.*

Wakeman, The chief Magistrate of the Town of Rippon in Yorkshire so called, *quasi* Watchman, *Camd. Brit.*

Wald, Walda. See *Weald.*

Wales, Wallia, Is a part of England on the West side, inhabited by the Offspring of the ancient Britons, chased thither by the Saxons, called in to assist them against the Picts and Scots: But now they are incorporated to England, see *Lamb. Explication of Saxon words, verb. Wallus.*

Walkers, Are such as are otherwise called Foresters, *Crompt. Jur. fol. 145.* There are Foresters assigned by the King, who are Walkers within a certain space of Ground assigned to their Care.

Walviaria mulieris, Is as much as *Vilatio viri*, *Reg. Orig. fol. 132.*

Wall or Sea-wall. See *Water-gate.*

Walletheria or Walerheria, — *Quod* quatuor villata propinquiores loco ubi casus Homicidii vel infortunium contigerit, veniant ad proximum Comitatum una cum inventore & Walletheria, i. Parentela hominis interfecti & ibidem presentent factum felonie & casum infortunii, &c. I find, (saith Spelman) in a certain Note, A Walletheria, i. Parentela interfecti, scil. unus ex parte patris & alius ex parte matris, and concludes that significat wallica pars ut videtur.

Wang, Properly signifies in the Saxon Tongue a Field, but we use it also for the Cheek or Jaw-teeth, which Chaucer calls *Wangs* and *wang-teeth*, according to these Verses,

And in witness that this is sooth,
I bite the wax with my wang tooth.

Wangenethrof, -- *Sit quietum de Welth & Droth, de wrecho, & de Wangenethrof & Danegelde, Pat. 22 H. 4. par. 1. m. 33.*

Wannage, Wannagium, *Eodem anno (viz. 1198.) Rex Anglie accepit de unaquaq. carucata terra sine Hyda totius Anglie, 5. sol. de auxilio, ad quos colligendos misit idem Rex per singulos Comitatus Anglie, unum Clericum & etiam unum Militem, &c. Qui fecerunt venire coram se Senescallos Baronum illius Comitatus, qui juraverunt quot carucarum wannagia fuerint in singulis Villis, &c. Ipsi vero qui electi fuerant, & constituti ad hoc negotium Regis faciendum,*

statuerunt per estimationem legalium hominum ad uniuscujusq. Carucæ wannagium centum acras terra, Hoveden's Annal. part. poster. fol. 443. num. 30. See Wainage. Wannagium sometimes seems to signify Wain houses, or necessary Out-houses for Husbandry.

Wapentake; Wapentachium, Is all one with that we call a Hundred, as appears by *Brañon, lib. 3. tract. 2. cap. 1. num. 1. Convocentur* (saith he) *servientes & Ballivi Hundredorum, & per ordinem irrotulentur Hundredarii sive wapentachia & nomina servientium, &c.* And *Lambert* in his *Explication of Saxon words, verb. Centuria;* Is of the same mind, adding that this word is specially used in the North Countries beyond the River Trent. And in the Laws of King Edward the Confessor, are these words, *Et quod Angli vocant Hundredum, supradicti comitatus vocant wapentachium.* The original of the Name *Hoveden* derives à *tañu armorum*, because *cum quis accipiebat prefeturam wapentachii, die Statuto in loco ubi consueverant Congregari, omnes majores contra eum conveniebant & descendente de equo suo, omnes asurgebant ei. Ipse vero, erecta lancea sua, ab omnibus secundum morem fedus accipiebat: Omnes enim quotquot venissent cum lanceis suis ipsius hastam tangebant, & ita confirmabant per contactum armorum pace palam concessa, &c.* But we take it from hence, *Quod quoties novus esset Hundredi Dominus ei in subjectionis signum arma redderent Vassalli, Ranulph. Cestr. lib. 1. cap. 5. See Fleta, lib. 2. cap. 61. sect. universimode.* Sir Thomas Smith de *Rep. Anglor. lib. 2. cap. 16.* says, That anciently *Musters* were taken of the *Armor and Weapons* of the several Inhabitants of every several *wapentake*, and from those that could not find sufficient Pledges for their good abearing, their *Weapons* were taken away, and given to others. The Statutes 3 H. 5. ca. 2. 9 H. 6. ca. 10. and 15 H. 6. cap. 7. make mention of *Staintiffe wapentake* and *Frendless wapentake in Craven*, in the County of York. See *Camd. Brit. fol. 159. and Co. 2 par. Inst. fol. 99.* *Wapentake hoc est quietancia de fessis & Hundreds quod dicitur wapentake. M. S. in Biblioth. Cotton. sub tit. Vitellius.*

Ward, Custodia, Hath divers significations, as a *ward* in London, in Latine *warda*, which is a portion of the City, committed to the special charge of one of the Aldermen of the City. See *Stowe's Survey of London*: Also a Forest is divided into *wards*, *Manwood, part 1. pag. 97.* Thirdly, A Prison is also called a *ward*. Lastly, The Heir of the King's Tenant, that held by *Knights service* or in *Capite*, was called a *ward* during his Nonage, 32 H. 8. 46. But this last is taken away by the Stat. 12 Car. 2. cap. 24.

Wards and Liveries, Wardi & Libera-ture, Was a Court first erected by King Henry the Eighth, and afterwards augmented by him with the Office of *Liveries*, and therefore stiled *The Court of Wards and Liveries*; But it is absolutely taken away and abolished by the Statute made Anno 12 Car. 2. cap. 24.

Warden, Gardianus, Is the same with the French *Gardein*, and signifies him that hath the keeping or charge of any Person, or thing by Office; as *Wardens of the Societies in London*, 14 H. 8. cap. 2. *Warden-Courts*, 31 H. 6. cap. 3. *Warden of the Marches*, 4 H. 7. cap. 8. *Warden's and Commonalty of the Lands contributory to Rochester Bridge,*

Bridge, 18 Eli. 7. *Warden of Peace*, 2 E. 3. 3. Stat. Northampton. *Warden of the West Marches*, Camd. Brit. pag. 606. *Warden of the Forest*, *Manwood*, part 1. pag. 42. & 111. *Warden of the Alnage*, 18 H. 6. 16. *Warden of the King's Wardrobe*, 51 H. 3. stat. 5. *Wardens of the Tables of the King's Exchange*, 9 E. 3. stat. 2. cap. 7. & 9 H. 5. stat. 2. cap. 4. *Wardens of the Rolls in the Chancery*, 1 E. 4. cap. 1. 5. *Warden or Clerk of the Hanaper in Chancery*, *Ibid.* *Warden of the King's Writs and Records of his Common Bench*, *Ibid.* *Warden of the King's Armor in the Tower*, 1 E. 4. 1. *Warden of the House of the Converts*, 12 Car. 2. cap. 30. And *Warden of the Stannaries*, 14 Car. 2. cap. 3. See *Gardian*.

Wardmote, *Wardmotus*, Is a Court kept in every ward in London, 32 H. 8. 17. ordinarily called among them *The Wardmote-Court* or *Inquest*. See 4 Inst. fol. 249.

Wardpeny alias **Warpen**, and **Warrth-peny**, Is Money contributed to watch and ward; *Denarii vicecomitis vel alius castellanis persoluti ob castrorum presidium vel excubias agendas*. And in a Charter of William the Conqueror to the Church of St. Martine in Battell, we find these words, *Concedo etiam eidem Ecclesie leugam circumquaq; adjacentem liberam & quietam ab omni Geldo, & Sello, & Hydagio, & Danegeldo, & opere Pontium, & Castellorum, & Parcorum, & omnibus auxiliis, placitis & querelis, &c. cum Saca & Soca & Thol & Theam, & Infangeheof & Warpeny, &c.*

Wardage, *Vargium*, It seems to be the same with the *wardpeny*, which see.

Wardstaf, *Lamborne Mannor in Essex* is held by Service of the *Wardstaf*, viz. to carry a Load of Straw in a Cart with six Horses, two Ropes, two Men in Harnefs to watch the said *Wardstaf*, when it is brought to the Town of Aibridge, &c. Camd. tit. *Essex*.

Wardseoh or **Wardsegh**, Signified the value of a ward, or the Money paid to the Lord for his Redemption from wardship.

Wardwite, *Si significat quietantiam misericordie in casu quo non inveniunt, qui hominem ad wardam faciendam in castro vel alibi*, *Fleta*, lib. 1. cap. 7. And *Spelman* says it is, *Immunitas a presidio faciendis vel ab eorum contributione*.

Warranty, *Warrantia est securitas a venditore prestita emptori, quo tranquille aliquid possideat. Eaq; a significatione warrantizare dicitur warrantus, sive venditor quando se empto obligat per acta Curie, aut chartam, aut contractus instrumentum*, *Vossius de vitis Sermonis*, lib. 2. ca. 20. It is a Promise or Covenant by Deed made by the Bargainor, for himself and his Heirs, to warrant or secure the Bargainee and his Heirs against all Men, for the enjoying any thing agreed on between them. And he that makes this warranty is called *warrantus*, by *Bracton*, lib. 2. cap. 19. and 37. And this warranty passeth from the Seller to the Buyer, from the Feoffor to the Feoffee, from him that releaseth, to him that is released from an Action real, and such like: And the form of it is in this manner, *Et ego prefatus J. & heredes mei pradictas decem acras terre cum pertinentiis suis, prefato H. heredibus & assignatis suis contra omnes gentes warrantizabimus in perpetuum per presentes*, *West Symbol*. part 1. lib. 3.

tit. *Feoffments*, sect. 287, 288. See *Glanville*, lib. 3. per totum. *Bracton*, lib. 5. tract. 4. *Britton*, cap. 105. and 2. 4. *Rep. fol. 81. Nokes Case*. *Warranty* is either real or personal; Real, when it is annexed to Lands or Tenements granted for life, &c. And this is either in Deed, as by the word *warrantizo* expressly; or in Law, as by the word *De-di*, or some other amplification: Personal, which either respects the property of the thing sold, or the quality of it. Real warranty in respect of the Estate, is either Lineal, Collateral, or commencing by *Disseisin*, for which see *Littleton* in the last Chapter of his Tenures, and *Co. lib. 3. Fermor's Case*, fol. 78. So then under the word *Heredes* are comprehended all such as the first warrantors Lands afterwards come unto either by descent, or otherwise, *Bracton*, lib. 5. tract. 4. cap. 1. num. 2. faith, *Imprimis videndum est quid sit warrantizatio; Et sciendum quod warrantizare, nihil aliud est quam defendere & acquiescere tenentem, qui warrantum vocabit in seipso sua*. With whom agrees *Fleta*, lib. 5. cap. 15. sect. 1. & lib. 6. cap. 23. per totum. By what words in a Feoffment a Feoffor shall be bound to warranty. See the *Statute of Bigamy*, 4 E. 1. cap. 6. and see *Co. on Lit. fol. 365. and 383*. There is also a *warrant of Attorney*, whereby a Man appoints another to do some thing in his Name, and warranteth his Action; which seems to differ from a *Letter of Attorney*, which passeth usually under the Hand and Seal of him that makes it, before any credible Witnesses; whereas a *warrant of Attorney* in personal, mixt, and some real Actions, is put in of course by the Attorneys for the Plaintiffs or Demandants, Tenants or Defendants. But a *warrant of Attorney* to suffer a common Recovery by the Tenant or Vouchee, is acknowledged before such Persons as a Commission for the doing thereof directs, *West Symbol*. 2. par. tit. *Recoveries*, sect. 1. See *Attorney*.

Warrantia Chartæ, Is a Writ that lies properly for him, who being infeoffed in Lands or Tenements, with a Clause of warranty, and is impleaded in an *Affise* or writ of Entry, wherein he cannot vouch or call to warranty: For in this Case his remedy is to take out this Writ against the Feoffor, or his Heirs, *Reg. Orig. fol. 157. F. N. B. fol. 134. Fleta*, lib. 6. cap. 35. and *West Symbol*. part 2. tit. *Fines*, sect. 156.

Warrantia diei, Is a Writ lying in case where a Man having a day assigned personally to appear in Court to any Action wherein he is sued, is in the meantime, by Commandment, employ'd in the King's Service, so that he cannot come at the day assigned: The Writ is directed to the Justices to this end, that they neither take nor Record him in default for that day, *Reg. Orig. fol. 18. Of this read more F. N. B. fol. 17. and Glanville, lib. 1. cap. 8*.

Warrantia custodie, Is a Writ Judicial, and lay for him who was challenged to be a Ward to another, in respect of Land said to be holden in Knights-service, which when it was bought by the Ancestors of the Ward, was warranted to be free from such thraldome, and it lay against the Warrantor and his Heirs, *Reg. Jud. fol. 36*. But now by the Statute made 12 Car. 2. cap. 24. It is become altogether out of use.

Warrant of Attorney. See *Letter of Attorney* and *warranty*.

Warenum & terra warena, Land that has been neglected; and long untill'd, fallow Ground: *Tenus warena* in ancient Records signifies the time wherein Land lies fallow. ... In *waretis*, in *Bruerie*, in *Bosch*, in *Marisck*, in *Defensi*, & in *omnibus terris*, &c. Mon. Ang. 2. par. fol. 253. And in the same, part 1. fol. 525. we read 25. *Acrae uno-quog; anno ad seminandum & totidem ad warestandum*. See also *Pvernagium*.

Warren, *Warrenna* alias *Varrenna*, Cometh of the French *Garenne*, i. *Vivarium*, vel locus in quo vel aves, vel pisces, vel fera continentur, quæ ad vi- sum duntaxat pertinent, Calpurnius out of Aulus Gel- lius, lib. 2. Noſt. Attic. cap. 20. But a Warren as we use it, is a Franchise or place privileged, ei- ther by Prescription or Grant from the King, to keep Beasts and Fowl of warren, which are Hares and Conyes, Partridges and Pheasants: And if any Person be found an Offendor in any such Fee- warren, he is punishable for the same at the Com- mon Law, and by the Statute 21 Ed. 3. called the Statute *De malefactoribus in parvis & chaceis*, &c. A Fee warren may lie open, for there is no necessity of inclosing the same as there is of a Park; which ought to be seised into the King's Hands, if it be not inclosed.

Warnoth, Is an ancient Custom, whereby if any Tenant holding of the Castle of Dover, fail'd in paying his Rent at the day, he should forfeit double, and for the second fayler treble, &c. Inter Record. de Recept. Scac. Trin. 33 E. 1. Linc. 46. coram Rege. And in Mon. Ang. 2. par. fol. 589. *Terris cul- tis & terris de Warnoth*.

Wartrot, Was the Contribution wont to be made towards Armor in the Saxons time. *Sint omnes tam primarii quam mediocres & minuti, immunes, liberi & quieti ab omnibus Provincialibus, summonitionibus & po- pularibus placitis quæ Hundred-laghe Angli di- cunt, & ab omnibus armorum oneribus quod Warlcot Angli dicunt & forinsecis querelis*, Leg. Forest. Canuti Reg. num. 9.

Wartwite. See *Wardwite*.

Wast, *Vastum*, Hath divers significations: First, It is a spoyl made either in Houses, Woods, Lands, &c. by the Tenant for Life or Years, to the prejudice of the Heir, or of him in the Re- version or Remainder, *Kitchin*, fol. 168. Where- upon the Writ of *wast* is brought, for the reco- very of the thing wasted and treble Damages. See *Vesto*. *Wast* of the Forest is most properly where a man cuts down his own Woods within the Forest, without Licence of the King, or Lord chief Justice in Eyre. See *Manwood*, part 2. cap. 8. num. 4. & 5. Secondly, *Wast* is taken for those Lands which are not in any Mans Occupation, but lie Common; which seem to be so called, because the Lord cannot make such profit of them as of his other Lands, by reason of that use which others have of it in passing to and fro; upon this none may Build, cut down Trees, Dig, &c. without the Lord's Licence. Thirdly, *Tear, day and wast*, (*Annus, dies & vastum*,) Is a Punishment or Forfeiture be- longing to Petit Treason or Felony, whereof you may read *Stamf. Pl. Cor. lib. 3. cap. 30*. And see *Tear, day and wast*.

Wast ground, *Vastus fundus*, Is so called, because it lies as *wast*, with little or no profit to the Lord of the Mannor; and to distinguish it

from the Demesnes in the Lord's Hands, 2. par. Inst. fol. 656. See *Wast*.

Wastors, Were a kind of Theeves so cal- led, Anno 5 E. 3. cap. 14. *There have been divers Wastlaughters, Felonies and Robbe- ries done by People called Wastorsmen, Wastors, and Draw-latches*, 4 H. 4. cap. 27.

Wastel Bread, Anno 51 H. 3. Statute of Bread seems to be the finest Bread: But whence the word *wastel* is derived, *Non liquet*, says the Glosse in 10. Scriptores. See *Cocket*.

Water-Bayliffs, Seem to be Officers in Port-Towns, for the searching of Ships, 28 H. 6. cap. 5. Also an Officer belonging to the City of London, who hath the supervising and search of Fish brought thither, and the gathering of the Toll ri- sing from the Thames. He also attends on the Lord Mayor for the time being, and hath the principal care of marshalling the Guests at the Table; and doth Arrest Men for Debt, or other personal or criminal Matters, upon the River of Thames, by Warrant of his Superiors, and the like.

Watergage, *Watergagium & Aquagagi- um*, A Sea-wall or Bank to diffrain the Current or Overflow of the Water: Also an Instrument to gage or measure the quantity or Deepness of any Waters.

Watergang, *Watergangium*, A Trench or Course to carry a Stream of Water, such as are usually made in Sea-walls to loose and drain Water out of the Marishes. Some con- found this with *watergage*, but they seem to differ in signification; Carta H. 3. *De ordinatione Marisci de Romeney*, &c. *Ad reparandum wallum & Wa- tergangias ejusdem Marisci contra Marin periculum*. Omnibus Ballivis de Bessingstone, Robertus de Curci, salutem, Mando vobis atq; precipio, quatenus justiciis meos homines de Margate, ut faciant wallas & watergan- gas, & clausuras wallarum sicut debent facere, Mon. Ang. 2. par. fol. 920.

Water gavel, Was a Rent paid for fish- ing in, or other benefit received from some River or Water, *Henricus--Rex salutem; Sciatis nos dedisse, &c. dilecto & fideli nostro Huberto de Burgo comiti Cantie & Margerie uxori sue redditum 32 s. & 4 d. quem homines eorundem Huberti & Margerie de Manerio suo de Elmour nobis reddere solebant singulis annis per manum Ballivorum nostri de Menstreworth nomine*. *Water-gavel Habend.* Dat. 15 H. 3.

Watling-street, Is one of those four wayes which the Romans are said to have made here, and called them *Consulares*, *Pratorias*, *Mil- litares & Publicas*. This Street is otherwise called *Werlam-street*. See *Hoveden*, part. prior. *Annal.* fol. 248. This Street leads from Dover to London, Saint Albans, Dunstable, Towcester, Atherston, and the Severne, near the *Wrekin* in Shropshire, extend- ing it self to Anglesey in Wales; Anno 39 Eliz. cap. 2. The second is called *Ikenild-street*, so called ab Ikenis stretching from Southamton over the River Ipsi, at Newbridge; thence by Camden and Linch- field, then it passeth the River Derwent by Der- by, so to Bosworth Castle, and ends at Timmouth. The third was called *The Fosse*, because in some places it was never perfected, but lies as a large Ditch, leading from Cornwall through Devonshire, by Tetbury, near Stow in the moids, and besides Coventry

Covenry to Leicester, Newark, and so to Lincoln. The fourth was called *Ermine* or *Erminage-street*, beginning at St. David's in West-Wales, and going to Southampton. See the Laws of Edward the Confessor whereby these four Publick wayes had the Privilege of *Pax Regis*. See Holinshed's Chron. vol. 1. cap. 19. and Henry of Huntington, lib. 1. in principio.

Wax or **Waxrot**, *Ceragium*, This was anciently paid thrice a year towards the charge of Candles in Churches. *Tributum quod in Ecclesiis fendeatur ad administrationem cere & Luminarium*. Hac autem solutione multi se contendant immunes esse a minoribus quibusdam decimis persolvendis ejusdemq; generis sunt quæ alias *Cork & Wax*, alias *Spaineport* appellantur. Spelman.

Wap. See *Chimim*.

Wald or **Weld**, A Saxon word signifying *Sylvæ*, is the woody part of a Country, as the *wald of Kent*, Camd. Brit. pag. 247. Anno 26 H. 8. cap. 7. In the Collection of Statutes, 14 Car. 2. cap. 6. It is misprinted *wildes of Suffex*, Surrey or Kent, for *Walds*.

Ware or **Werre**, *Wera & wara*, A Stank, or great Dam in a River, well known; accommodated for the taking of Fish, or to convey the Stream to a Mill. *Unam warram & duas Cottendas cum Dominio & Prato*, Mon. Angl. 2. par. fol. 128. See Kiddlel.

Wess. See *Waise*.

Weigh, *Waga*, Is a weight of Cheese or Wooll containing two hundred fifty six pounds of *Aver-du-pois*. See *Waga*. Co. 12. Rep. fol. 17. mentions eighty weigh of Bay Salt.

Weights, *Pondera*, There are two sorts of them in use with us; The one called *Troy-weight*, having twelve ounces in the pound, by which Pearl, Pretious Stones, Electuaries, and medicinal things, Gold, Silver and Brede be weighed. The other is termed *Averdupois*, and contains sixteen ounces in the pound, by which all other things be weighed that pass by weight. *Gen. Agricola* in his learned Tractate *De Ponderibus & mensuris*, pag. 339. terms the pound of twelve ounces *Libram medicam*; and the other of sixteen ounces *Libram civilem*, saying thus of them both, *Medica & civilis libra numero non gravitate unciarum differant*. The second seems so to be termed, by reason of the more full weight. But by these words *Aver du pois* are sometimes signified such Merchandise as are bought and sold by this kind of weights. The first Statute of York, made 9 E. 3. in *Proem*. 27 E. 3. stat. 2. cap. 10. and 24 H. 8. cap. 13. See *Skene de Verbor. Signif. verb. Serp. larthe*. All our Weights and Measures have their first Composition from the Penny-Sterling, which ought to weigh thirty two wheat Corns of a middle sort; twenty of which Pence make an Ounce, and twelve such Ounces a Pound; but fifteen Ounces make the Merchants Pound, *Fleta*, lib. 2. cap. 12. which though an ounce less should probably be all one in signification with *Aver-dupois*, and the other Pound called by *Fleta*. *Troye weight* plainly appears to be the same with that we now call *Troy weight*. See *Tro-nage*. From henceforth there shall be one weight, one Measure, and one Yard, accord-

ing to the Standard of the Erchequer, through all the Realm, &c. Anno 17 Car. 1. cap. 19.

Weights of Auncell, Anno 14 E. 3. stat. 1. cap. 12. See *Auncell weight*.

Weythe, --- *Et omnia animalia adventantia fugitiva*, Gallice *Weyth* in toto Hundredo de Haldin, Mon. Ang. 2. par. fol. 187. See *Wais*.

Wend, *Wendus*, i. perambulatio, From the Saxon *Wendan*, i. e. to go. *Procinctus terra amplior plurima juga in se continens*, *Rentale Regalis Manerii de Wye*, pag. 31. -- *Tres sunt wendi*, *et* *Down-wend*, *Chiltones wend*, *et* *Wrons-fordwend*, & in quolibet wendo sunt decem juga & sic in tribus wendis sunt 30. juga, quarum 26. juga & dimid. sunt in wye & infra. Quilibet wendus facit 10. *avozagia* semper de tribus septimanis in tres, &c.

Wete alias **Wetere**, According to *Lambert* in his Explication of Saxon words signifies *estimatio capitis aut pretium hominis*. That is so much as one paid in ancient time for killing a Man, when such Crimes were punished with pecuniary Mults, not Death. In *Leg. Ed. Conf.* cap. 11. We read *Wete suum*, --- id est, pretium sue redemptionis, his ransome. --- *Siquis ante Comitem in placito pagaverit, emendat secundum pretium sui-istius*, & forsassuram quod Angli dicunt *were & wite*, *Leg. Canot. M. S.* pag. 150. In which words the Saxon *W.* is often mistaken for *P.* and written *Pete* and *Pite*. See *Pete* and *Pite*. See also *Gavellet*.

Weregelt-thef, Signifies a *Theif* that may be redeemed, *Fleta*, lib. 1. cap. 47.

Weregild, **Wergeld**, *Wergildus*, *Pretium seu valor hominis occisi, homicidii pretium*, which was paid partly to the King, for the loss of his Subject, partly to the Lord whose Vassal he was, and partly to the next of Kin. *De unoquoque fure per totam Scotiam est wergelt 30. Vacca & una juvenca, sive fuerit liber homo, sive servus*, *Reg. Majest.* lib. 4. cap. 19. The *weregild* of an Archbishop and of an Earl was 15000 *Thrimss's*, *Selden's Titles of Honor*, fol. 604.

Weretosse, --- *Et sine quieti de communi misericordia Comitatus*, de *Ward-peny*, & *Aver peny*, de *Hundred-peny* & *Thirthing-peny*, de *Weretosse*, & de *forefeng*, *Carta Hen. 1.* See *Were*.

Werbagium, --- *Cum omnibus aliis consuetudinibus, legibus & libertatibus suis & werwagio suo* *bi land & bi strand*, *Carta Hen. 3.* *Levelhamentis canonis concess.*

Wess-Saxonlage, Was the Law of the West-Saxons. See *Merchenlage*.

Westminster, *Westmonasterium*, Was the ancient Seat of our Kings, and is now the well-known place, where the High Court of Parliament and Courts of Judicature sit. It had great Privileges granted by Pope *Nicholas*, among others. *Ut amplius in perpetuum Regie constitutionis locus sit atq; Repositoryum Regalium insignium*, *Ep. ejus ad div. Edovard.* Tom. 3. B. fol. 1228. See *City*, and 4. *last.* fol. 255.

Wetecroft, *Habebis mensuram unam*, *sc. wetecroft cum orto ubi possit manere*, &c. *Mon.* Ang. 2. par. fol. 40.

Wharfe, Wharfa, Is a broad plain place near a Creek or Hith of the Water, to lay Wares on, that are brought to or from the Water, *New Book of Entries*, fol. 3. Anno 12 Car. 2. cap. 4.

Wharfage, Wharfagium, Is money paid for landing Wares at a Wharf, or for shipping or taking Goods into a Boat or Barge from thence. It is mentioned 27 H. 8. cap. 26. And 22 Car. 2. cap. 11, &c.

Wharfinger, Is he that owns or keeps a Wharf, or hath the over-sight or management of it, Anno 7 E. 6, 7. 12 Car. 2. cap. 4. and 22 Car. 2. cap. 11.

Whetcelage, Rotagium; Tributum est quod Rotarum nomine penditur, hoc est pro planstris & carris transeuntibus. Spelm.

Whitehart Silver, Candidi cervi argentum; Is a mulst paid into the Exchequer out of certain Lands in or near the Forest of Whitehart, which hath continued from Henry the Third's time, who imposed it upon Thomas de la Linde, for killing a most beautiful White Hart, which that King before had purposely spared in huntings, *Camd. Brit.* pag. 150.

White Kent, Redditus albus. See *Quit-Rent*.

White Spurs, A sort of Esquires so called. See *Esquires*.

White Straites, A kind of coarse Cloth made in Devonshire, about a yard and half a quarter broad, raw, mentioned 5 H. 8. cap. 2.

Whitton-farthings. See *Pentecost falls*, mentioned in Letters Patent of Henry the Eighth to the Dean of Worcester.

Widow of the King, Vidua Regis, Was she, that after her Husband's death, being the King's Tenant in Capite, was forced to recover her Dower by the Writ *De Dote assignanda*, and could not marry again without the King's consent, *Stamf. Prærog.* cap. 4. See the Statute of the *Prærog.* Anno 17 E. 2. Mag. Chart. cap. 7. and 32 Hen. 8. cap. 46. See F. N. B. fol. 263.

Widow-hood, Viduitas, The state or condition of a Widow.

Wife, Uxor, After Marriage, all the will of the Wife, in judgment of the Law, is subject to the will of the Husband, and it is commonly said *A feme covert hath no will, sed fulget radiis mariti*, Co. 4. Rep. Forfe and Hembling's Case. See Perkins, fol. 2, 3, 4. Plowd. Comment. 344. Bret and Rigdon's Case, Doctor and Student, fol. 13. and 4 H. 6. 31.

Will, or last Will, Testamentum, ultima voluntas, Is of two sorts, A Will in writing, called also a Testament; and a Will by word of Mouth, only called a Nuncupative will, which being proved per Testes, may be of as good force as that in writing, except only for Lands, which are not devisable, but by a Testament in writing made in the life of the Testator. See *Touchstone of Wills*, pag. 2. See *Testament*.

Wiggreve, A Saxon word, derived from Wīg or Wīc, which signifies Sylvam, and Greve præpositus, and denotes the Overseer of a Wood, according to Spelman: But Wia in Saxon more truly signifies Vir, and so it may more properly intend an Overseer of the High-ways.

Winches, A kind of Engine to draw Barges up the Water against the Stream, Anno 21 Jac. cap. 32.

Winchester-hyning, Is that Season comprehended between the Eleventh day of November and the Three and Twentieth of April, which time, by the Act made 20 Car. 2. cap. 3. is excepted from the liberty of commoning in the Forest of Dean.

Wingilcheff, Vale Royal, pag. 113. Perhaps mistaken for *Weregildis*, which see.

Windsoze, A Herald. See *Herald*.

Wite, A Saxon word signifying Punishment, Pain, Penalty, Fine or Mulst: Hence Wite or Witfree, one of the terms of Privilege granted to our Possessors, denoting a Freedom or Immunity from Fines or Amerciaments, and not (as they vulgarly accept) from being liable to be beg'd for Fools, for lack of wit or understanding, Saxon Dict. See Wite & Glof. in 10. Script.

Witterden alias Witereden, & Wintersden, Was a kind of Taxation among the West-Saxons, imposed by the Publick Council of the Kingdom: For Wite and Witan signifie Majores Regni and Radan Concilium. See Charta Ethelwulphi Regis Catholica apud Malm. de Gest. R. lib. 1. pag. 41. Mansio (sc. quævis Ecclesiæ assignata) sit tuta & libera ab omnibus secularibus servitiis, Necnon regalibus tributis majoribus & minoribus sive taxationibus, qua nos dicimus Witereden.

Withernam, Vetitum Namium, May be compounded of the Saxon Wyther, altera, & Nam, captio, and is a forbidden taking, as the taking or driving a Distress to a Hold, or out of the County, so that the Sheriff cannot upon the Replevin make deliverance thereof to the Party distrained. In which case the Writ of Withernam, or de Vetito Namio is directed to the Sheriff, for the taking as many of his Beasts that did thus unlawfully distrain, or as much Goods of his into his keeping, till he hath made deliverance of the first Distress: Also if the Beasts be in a Fortlet or Castle, the Sheriff may take with him the posse Comitatus, and beat down the Castle, as appears by the Statute of Westm. 1. cap. 20. and Britton, cap. 27. Withernam according to Bracton, lib. 3. traß. 2. cap. 37. And in Westm. 2. cap. 2. seems to signifie an unlawful Distress made by him that has no right to distrain, Anno 13 E. 1. cap. 2. See the New Book of Entries, hoc verb. and see F. N. B. fol. 73. Reg. Orig. fol. 82, 83. Reg. Judic. fol. 29. and Smith de Repub. Anglor. cap. 10. This withernam (saith he) is in Dutch and likewise in Saxon Wither-nempt, that is alternum accipere, and signifies all one with Reprisalia, Reprisals. See Skene de verbor. Signif. verb. Averia.

Wload, Glafsum, Is an Herb like Plantane, growing in many places of England, formerly brought from Tholouse in France, and from Spain much used, and very necessary for the dying of a blue colour, Anno 7 H. 8. cap. 2. We call it Wood, from the Italian Guedo.

Wold, Walda, A Down, or Champagne-ground, hilly, and void of wood; as Stow in the wolds, and Coswold in Gloucestershire.

Wong,

Wong, A Saxon word, written otherwise *Wang*, and signifying a Field; *Tres acrum terra jacentis in lex wongs*. 1. in *campis opinor seminalibus, magis quam pascuis*, faith *Speelman*. So in an ancient Charter of *Garradon Abbey* in *Leicestershire*, Dat. 14 E. 3. There is mention of the *wicketwong*, which is a large piece of inclosed Ground lying before the *Abby Gate*. See *Wang*.

Woodgeld, *Woodgeldum*, Seems to be the gathering or cutting of wood within the Forest, or Money paid for the same to the Foresters; and the immunity from this by the King's Grant is by *Crompton* called *Woodgeld*, fol. 157. Co. on Lit. fol. 233. says, It signifies to be free from payment of Money for taking wood in any Forest.

Woodmen, Are those in the Forest that have charge especially to look to the King's Wood, *Crompton Jurisd.* fol. 446.

Woodmote, Is the old Name of that Court of the Forest, which is now since the Statute of *Charta de Foresta* called the Court of Attachments, and by that Statute is held every forty days, but was wont to be held at the will of the chief Officers of the Forest, without any certain time. See *Manning's Forest Laws*, cap. 22. fol. 209.

Woodplea Court, Is a Court held twice in the year in the Forest of *Clun* in *Shropshire*, for determining all matters of wood and agistment there, and perhaps was anciently the same with *Woodmote Court*.

Woodward, *Woodwardus*, Is an Officer of the Forest, whose Function you may understand by his Oath set down in *Crompton Jur.* fol. 201.

You shall truly execute the Office of a Woodward of B. woods within the Forest of W. so long as you shall me Woodward there; you shall not conceal any Offence either in Vert or Venison, that shall be committed & done within your Charge, but you shall truly present the same, without any Fear, Affection or Reward. And if you see or know any Malefactor's, or find any Deer killed or hurt, you shall forthwith do the Verdictor to understand thereof, and you shall present the same at the next Court of the Forest, be it *Swaimmote*, or Court of Attachments. So help you God.

Woodwards May not walk with Bow and Shafts, but with Forest Bills, *Manning*, part. II. pag. 189. *Arum & calamus gestare in Foresta non licet, sed. (ut rescripti utar verbo) Hachettum tantummodo.* Sic. Term. Hill. Anno 13 E. 3. Ebor. Rot. 106.

Wooll drivers, Anno 2 & 3 P. & M. cap. 13. Are such as buy wooll abroad in the Country of the Sheep-Masters, and carry it on Horseback to the Clothiers, or to Market-Towns to sell again.

Woolstherbefod, *Caput Lupinum*, Is the condition of such as were Outlawed in the Saxons time, for not submitting themselves to Justice: For if they could be taken alive, they should have been brought to the King, and if, upon fear of Apprehension, they defended themselves; they might be killed, and their Heads brought to the King; for they carried a *Wolves head*, that is to say, their Head was no more to be accounted of than a *Wolves head*, being a

Head so hurtful to Man. So the Laws of King Edward, by *Lambert* 2. fol. 127. num. 7. and *Bract.* lib. 3. traß. 2. cap. 11. This is miswritten *Wolves* shewed by *Roger Hoveden*, part. poster. 499. *Annal.* fol. 343.

Woollstaple, Anno 51 H. 3. stat. 5. That City or Town where wooll was sold. See *Staple*.

Woollminers, Are such as wind up every Piece of wooll, that is to be packed and sold by weight, into a kind of bundle, after it is cleansed in such manner as it ought to be by Statute; and to avoid such deceit as the Owners were wont to use by thrusting in locks of refuse wooll, and other dross, to gain weight. They are sworn to perform that Office truly between the Owner and the Merchant. See the Stat. 8 H. 6. cap. 22. 23 H. 8. cap. 17. and 18 H. 25.

Woormeed, *Semen Sanctonicum*, Is a medicinal seed, produced by that Plant which we call *Polly-wormwood*, whereof you may read in *Gerard's Herbal*, lib. 2. cap. 435. This is a Drug to be gasbled, Anno 1 Jac. cap. 16.

Wringlans, Seem to be misgrown Trees, that will never prove Timber; *Kitchin*, fol. 169.

Wrecke, *Wreckum maris*, Is, where a Ship is perished on the Sea, and no Man escapes alive out of it: The Civilians call it *Marstragium*. This wrecke being made, the Goods that were in the Ship being brought to Land by the Waves, belong to the King by his Prerogative, or such other persons to whom the King hath granted wrecke. But if a Man, or a Dog, or a Cat escape alive, so that the Party to whom the Goods belong come within a year and a day, and prove the Goods to be his, he shall have them again by the Provision of the Statute of *Westm.* 1. cap. 4. and 17 E. 2. cap. 11. Co. vol. 8. fol. 106. *Bracton*, lib. 2. cap. 5. num. 7. This in the *Grand Customary of Normandy*, cap. 17. is called *Varich*, and latined *verisum*, and in some ancient Charters it is written *Drupwerpe*, quasi *Dea upwerpe*, that is, *ejectus maris*, from *Upwerpen*, *ejicere*. By which, and other Antiquities, it appears, that wrecke did not only comprehend Goods that came from a perishing Ship, but whatever else the Sea did cast up upon the Land, were it precious Stones, Bibles, or the like, as by the Statute made 17 E. 2. cap. 11. called *Statutum Pragmatice Regis*, appears in these words; *Item Rex habebit wreckum maris, per totum Regn. Bajmas, & Stragiones captas in mari, vel alibi infra regnum, exceptis quibusdam locis privilegiatis per Regem.* In the Stat. 27 H. 8. cap. 26. it is called *wreck de mer*. See 21 Inst. fol. 167.

Writ Breve, Is the King's Precept, where, by any thing is commanded to be done touching a Suit or Action, as the Defendant or Tenant to be summoned, a Distress to be taken; a Dissession to be redressed, &c. And these Writs are diversly divided in divers respects, some in respect of their Order, or manner of granting are termed original, and some Judicial. Original Writs are these; that are sent out for the summoning of the Defendant in a personal, or the Tenant in a real Action, before the Suit begins, or rather to begin the Suit: Those are Judicial, which are sent out by

Order of the Court where the Cause depends, upon occasion after the Suit begun, *old Nat. Brev. fol. 51. & 147.* And the **Judicial** are known from the **Original** thus, because the **Teste** of that bears the Name of the chief Justice of that Court whence it Issues, whereas the **Original** in the **Teste** has the Name of the Prince; and according to the nature of the Action, they are either **personal** or **real**: **Real** are either touching the possession called **writs of Entry**, or the property called **writs of Right**. Some **writs** are at the Suit of the Party, some of Office, some Ordinary, some of Privilege: A **writ of Privilege**, is that which a privileged brings to the Court for his exemption, by reason of some Privilege. See *Procedendo*, and the *New Book of Entries*, Verb. *Privilege*. See *Briefe*.

Writ of Rebellion. See *Commission of Rebellion*.

Writ of Assistance. Issues out of the Exchequer, to authorize any person to take a Constable, or other publick Officer, to seize Goods or Merchandise prohibited and uncustomed, Stat. 14 Car. 2. cap. 11. There is also a **writ of Assistance** out of the Chancery to give a Possession.

Writer of the Tallyes, *Scriptor Talliarum*, Is an Officer in the Exchequer, being Clerk to the Auditor of the Receipt, who writes upon the Tallyes the whole Letters of Tellers Bills.

Writheper. See *Writheper*.

Wyke, *Wyke*, A Farm, or little Village, Et totam Wykam cum hominibus, &c. Mar. Angl. 2. par. fol. 154.

Wyte or Wyte, *Wyte vel wita*, In Latine Multa Saxones duo multarum genera statuere *weram & wipiam*, *Wera* mortis reos & gravissime peccantes liberabat. *Wyta* medius & levioribus delictis statuta fuit, non certa sed pro qualitate commissi, aliis gravior, aliis levior; salvo tamen semper contentamento delinquentis (ut lex loquitur in Mag. Chart. cap. 14.) hoc est, estimatione ejus Anglicis his **Countenance**. — Ex his placitis quedam amendantur centum solidis, quedam *wera* quedam *wyta*, quedam emendari non possunt, Leg. H. 1. cap. 13. Emendat juxta ordinis dignitatem, sive per redemptionem, i. *wyte*; per forisfacturam, i. *wyte*: per legis transgressionem, i. *Latheite*. M. S. de Leg. Canuti in Biblioth. Cotton. sub tit. *Vitelis*, C. 9.

Wrong, *Injuria*, Is in French aptly called **Wro**, because **wro** is wrested or crooked, being contrary to that which is right and frait, Co. on Lit. lib. 2. cap. 1.

X

Xenia, Dicuntur *Asynuscula* qua a Provincialibus rectoribus Provinciarum offerebantur. Vox est in Privilegiis Chartis non infrequens, ubi quietus esse a Xenis innumes notat ab hujusmodi maneribus alijsq; donis Regi vel Regine prestandis quando isti per pradia Privilegiatorum transierint, ut in Chart. domus Semplingham. Principibus enim talia sunt in more, a subditis vel invidis munera extorqueret. Itaq; ab hoc jago liberos

fecit Ecclesiasticis, Ethelbaldus Rex Merciorum, Anno 747. ut ab exemplari Chartæ suæ tum apud Iugulphum Sax. tum Will. Malinesb. lib. de Gest. Reg. Angl. p. 29. l. 4. his verbis habetur. Concedo ut omnia Monasteria & Ecclesia Regni mei a Publicis vestigalibus, operibus & oneribus absolvantur. — Nec munuscula præbent Regi vel principibus nisi voluntaria, Spelm. So in Memorand. Stat. de anno 20 E. 3. Trin. Rot. 3. Nulla autem persona parva vel magna ab hominibus & terra Radingeris Monasteriis exigat non equitationem sive expeditionem, non summagiam, non decimam, non navigia, non opera, non tributa, non Xenia, &c.

Xenobochium, *Interpretatur hospitium*, An Inn by Publick Licence allowed, for the entertainment of Strangers, and other Guests. It may also be interpreted an Hospital, In qua valetudinariorum & senes, id est, infirmi recipiuntur & aluntur. See *Vocab. Jurisq;*, juris, verb. *Eodem*.

Y *et Nay*, — *Quod homines sui* (Ripponicenses) sint credendi per suam Ya & per suam Nay in omnibus Querelis & Curis, licet tangent. *Freedomorell, &c.* Charta Athelstani Regis.

Yard, *Virga*, Is a well known Measure, three Foot in length, which (Sir Rich. Baker in his Chronicle says) Henry the First Ordained by the length of his own Arm. See *Virga ferrea*.

Yardland, *Virgata Terra*, Is a quantity of Land various, according to the place; as at Wimbeldon in Surrey it is but fifteen Acres, in other Counties twenty; in some twenty four, in some thirty, and in others forty Acres: *Virgata terræ* continet 24. Acres & 4. *Virgata* constitunt unam Hydram, & quinq; Hyde constitunt feodum militare, M. S. Abbatie Malnesb. This *Yardland* Bracton, lib. 2. cap. 10. & 27. calls *Virgatam terram*, but expresses no certainty what it contains. It is called a *Verge* of Land, Anno 28 E. 1. Statute of Wards. See *Selden's Titles of Honor*, fol. 622.

Year and Day, *Annus & Dies*, Is a time that determines a right in many Cases; and in some Works an usufruct, in others a Prescription; as in case of an Estray, if the Owner (Proclamations being made) challenge it not within that time, it is forfeit: So is the *year and day* given in case of Appeal, in case of Descent after Entry or Claim; of no Claim upon a Fine or Writ of right at the Common Law, so of a Villain remaining in ancient Demeasne: Of a Man so bruised or wounded: Of Protections, Essoins in respect of the King's Service; of a Wreck, and divers other cases, Co. vol. 6. fol. 107. And that touching the death of a Man, seemeth an imitation of the Civil Law. Nam si mortifere fuerit vulneratus & postea post longum intervallum mortuus sit inde annus numerabimus; Secundum Julianum l. ait lex. & ad legem Aquil.

Year, Day and Waste, *Annus, Dies & Vastum*, Is a part of the King's Prerogative; whereby he challengeth the Profits of their Lands and Tenements for a year and a day that are attainted of Petty Treason or Felony, whoever is Lord of the Mannor whereto the Lands or Tenements

nements belong; and not only so, but in the end may waite the Tenements, destroy the Houses, root up the Woods, Gardens; Pasture, and Plough up the Meadows, except the Lord of the Fee agree with him for redemption of such Waste, afterwards restoring it to the Lord of the Fee, whereof you may read at large in *Stamf. Prærog. cap. 16. fol. 44.*

Peelding and Paping, Reddendo & solvendo, Is a corruption from the Saxon *gelban* and *gylban*, *solvere*, *præstare*. And in *Doomsday Book*, *Gildare* is used for *solvere*.

Peme, Is an old Corruption from *Hieme*, and that from *Hiemi* winter; So some old Deeds have it, *Reddendo--ad festum S. Martini in peme*, &c. And in another of 4 E. 3. thus, *Reddend. quando dict. 4. acra terre seminantur semine peme* aliud *duodecim Bushell. boni & legalis frumenti ad festum Purificationis*, &c.

Peven or proven, So some old Indentures say, *Peven the day and year first above written*: It is the same with *Given*; and perhaps corrupted from the Saxon *Georþian*, i. *Dare*. So *Dilum de Kenelworth* concludes---*Peven*, and proclaimed in the Castle of Kenelworth the day before the Calends of November. Anno 1256.

Peman, or yeoman, or yoman, A derivative of the Saxon *geman*, i. *Communis*. These *Camden* in his *Brit. pag. 105.* placeth next in order to Gentlemen, calling them *Ingenuos*, whose Opinion the Statute affirms, Anno 6 Rich. 2. cap. 4. and 20 R. 2. cap. 2. Sir Thomas Smith in his *Republ. Anglorum, lib. 1. cap. 23.* calls him a *Yeoman*, who our Law calls *Legalem hominem*, which (says he) is in the English a Free-born man, that may dispense of his own free Land in yearly Revenue to the sum of forty shillings sterling. *Verstegan* in his *Restitution of decayed Intelligence*, cap. 10. writes, That *Gemen* among the ancient *Teutonickes*, and *Gemein* among the modern signifies as much as *Common*, and the letter *G.* being turned into *Y.* is written *Yemen*, which therefore signifies a *Commoner*. *Yeoman* also signifies an Officer in the King's House, in the middle place between the Sergeant and the Groom, as

Yeoman of the Chandry, Yeoman of the Scullery, 33 H. 8. cap. 12. *Yeoman of the Crown*; 3 E. 4; 5. The word *Yongmen* is used for *yeomen* in the Statute 33 H. 8. cap. 10. See *Yemen*.

Pingman, Leg. H. 1. cap. 16. *Danagildum quod aliquando pingeman datur*, i. 12 d. de unaquoque bida per annum; si ad terminum non reddatur, wita emendetur. *Spelman* thinks this may be mistaken for *Inglishman*; or as we say now *Englishman*, though he finds it written *pingeman* both in Sir Robert Cotton's *Codez* and his own.

Yvernagium, (From the French *Hyvernee*, that is, the Winter-Season;) was anciently used for the Winter-seedness, or season for sowing of Corn; *Disus vero Willielmus & heredes sui arabant unum seilonem ad yvernagium, & unum seilonem ad semen Quadragesimale, & unum seilonem ad varesum*, &c. *Charta Ricardi de Harecourt penes Tho. Wallacot Arm. sine Dat.*

Yule, Deep in the North parts of England, the Country People call the Feast of the Nativity of our Lord, usually termed *Christmas*, *yule*, and the Sports used at *Christmas*, here called *Christmas Gamboles*, they stile *Yule Games*.

Z.

Zcalot, Zelotes, Is for the most part taken in *pejorem sensum*, and so we term one that is a *Separatist* or *Schismatick* from the Church of England, a *Zealot*, or a *Fanatick*; which are well known terms of Separation.

Zuche, Zuchus, Strips siccas & aridas, A withered or dry stock of Wood, *Rex*, &c. *Quid accepimus per Inquisitionem quod non est ad dampnum seu præjudicium nostram aut aliorum, si concedimus dilecto valedito nostro Ric. de Stelley omnes Zuches aridos qui Anglice vocantur Stobenes infra Hauiam nostram de Beskeewood, que infra foretam nostram de Shirewood*, &c. *Pla. Forest. in Com. Nott. de Anno 8 H. 3.*---*Auxilium faciend. Burgenfis Salop. de veteribus Zuchis, & de mortuo bosco*, &c. *Claus. 4 Hen. 3. m. 10.*

F I N I S.

THE HISTORY OF THE
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FROM THE FOUNDATION
TO THE PRESENT TIME
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APPENDIX

CONTAINING

The ancient Names of Places here in *England*; very Necessary for the Use of all young *STUDENTS*; who intend to Converse with Old *Records, Deeds, or Charters.*

A.

A Blato-Bulgio,

Aballaba,
Applebeia,

Abbandunum;
Abbendonah;
Abendonah,
Abone,
Abonis,
Abrevicum,
Abbus estuarium,
Atthelanda,

Adelingia;
Ad-Lapidem;

Ad-murum,
Ad-Pontem,
Adros, vel
Andros, vel
Andros,
Adurni portus,
Ebudæ,

Etona;
Afenā,
Agelocum;
Ager Maridunensis,
Alannius,

Alatnicus portus,
Alaunicus Pons,
Alaunodunum,
Alaufus, flu.

Album Monasterium,
Alenus, flu.

Alion;
Alione,
Alonē

B Vlaefe or Balaife in
Cumberland.
Appleby in Westmer-
land.

Abington in Berk-shire,
formerly called Sep-
ham.

Avington or Aveton in Glo-
cestershire.

Barwick on Tweed.

Hamber in York-shire.

Bishops Auckland in the Bi-
shoprick of Durham.

Atbelury in Somersetshire.

Stoneham in Hampshire, near
Redbridge.

Waltown.

Pawnton in Lincolnshire.

Bardsley Island betwixt
Wales and Ireland.

Ederington in Suffolk.

The Isles of Hebrides to the
West of Scotland.

Eaton in Berk-shire.

See Segelocum.

Carmarthen-shire.

The River Avon in Wil-
shire.

Milford Haven.

Maidenhead in Berk-shire.

The River Aine in Nor-
thumberland.

Whitchurch in Shropshire.

The River Aled in Dorset-
shire, another in Denbi-
shire; also the River
Aine in Warwick-shire.

Lancaster, also Whitty Castle
in Cumberland.

Alone flu.

Amboglanna;

Ambrosii burgas;

Amensilima montana de

de Balisam;

Ancalites,

Anderida;

Andevera,

Anglefega;

Mona;

Anguillaria insula;

Anguillarianum Mo-
nasterium;

Antivestrum;

Autona vel

Aufona,

Apiacum,

Aquæ calidæ;

Aquæ solis;

Akeman-cester,

Aquædon;

Aquædunensis saltus;

Aquævadenfis pons;

Aquædunum;

Aquilædunum;

Arbeia;

Ariconium;

Arundelia;

Arundellum;

Aruntina vallis;

Arundinis vadum;

Ar unus, flu.

Arvonica.

Arus, flu.

Asaphensis episcopatus;

Athanaton;

Athetis flu.

Attrebatii;

Avalonia;

Augusta Trinobantum;

Bbbb 2

The River Alon in Nor-
thumberland.

Amblefide in Westmer-
land.

Amesbury in Wiltsh.

Gogmagog Hills near Cam-
bridge.

The Hundred of Denby in
Oxfordshire.

Newenden in Kent.

Andover in Hampshire.

Anglesey.

The Isle of Ely.

The City of Ely.

The Lands end.

Asfon or nen in Northamp-
tonshire.

Pay Castle in Cumberland.

Bath City in Somersetshire.

Eidure vulgo Eatoun.

Waterdon.

Eisford.

Aleton.

Hoxton in stead of Eagles-
Town.

Ipsby in Cumberland.

Remchester near Hereford.

Arundel in Suffex.

Redbridge in Hampshire.

The River Aran in Suffex.

Carnarvonshire.

The River Ayr in York-shire.

The Bishoprick of St. Asaph.

The Isle of Thanet in Kent.

The River Tees in the Bi-
shoprick of Durham.

Berkshire Med.

Glastonbury in Somersetshire.

London.

Avena

Avena flu.

Aven in Wiltshire.

The River Aven, that runs through Northamptonshire by Malmesbury, Bradford, Bathe, Briffoll.

The River Aven, that runs through Northamptonshire by Malmesbury, Bradford, Bathe, Briffoll, and into the Sea near London.

The Aven that flows by Amesbury, Salisbury, and into Dorsetshire.

The waveny that divides Norfolk and Suffolk runs by Bawby, curiously fabled for many years.

Avona, flu.

Avona,

Avona,

Axodunum,

Avonæ vallis,

Axelodunum,

Bungey in Norfolk.

Hampton Court according to Leland.

Avondale or Oundle in Northamptonshire.

Axodunum in the Bishopric of Durham.

Bachelaganz sylva,

Badiza,

Badonicus mons,

Bath in Somersetshire.

Bath in Somersetshire.

Bath in Somersetshire.

Bainardi castellum,

Bainos pons,

Balnea,

Batha,

Bathonia,

Bannavenna,

Bannaventa,

Banus, flu.

Baynards Castle in London.

Bainbridge in Yorkshire.

Bath City.

Northampton, or rather Weedon the street.

The River Ban in Lincolnshire.

Basing in Hampshire.

Battersby.

Berkshire.

Bedford.

The Inhabitants of Somerset, Wilts and Hampshire.

See Antiquarium.

Bellings Gate.

Rhigelmouth in Lancashire.

Biland in Yorkshire.

Belarium prom.

Bellinus sinus,

Belisama,

Bellelanda,

Belloclivum,

Bello desertum,

Bellus locus,

Berceia,

Bercheria,

Berechingum,

Berclia,

Bermundi insula,

Beldesert in Warwickshire.

Berkshire.

Barking in Essex.

Berkley in Gloucestershire.

Bermundsey in Surrey.

Bernardi Castellum,

Bernicia,

Berwick;

Bever;

Beverlensis;

Bibro;

Bibroci;

Bimonium vinocium;

Bimonium vinovia;

Binovia;

Bimonium;

Bimonium;

Blancford;

Blancum castrum;

Blatum Belgium,

Blestium,

Boccinum,

Bodiamum;

Bodria;

Bolerium Prom;

Bonum leg Bovium;

Boracum Prom;

Borcovicum;

Borcovicus;

Boteleg;

Brabodiam;

Bracchium;

Brachia;

Brampton;

Brannodunum;

Branovium;

Brenoricum;

Bravium;

Branconium;

Brannovium;

Brechia;

Bremenium;

Bremetonacum;

Bremeturacum;

Bcentæ Vagus;

Brigantes;

Brigantium;

Bridge vel Brage;

Bristolia;

Bristow;

Brocavum;

Brocave;

Broconium;

Brovonatis;

Brovonasum;

Bromfeld;

Bucofenum;

Bernard Castle in the Bishoprick of Durham.

Was a Province reaching from the River Tees to Edenborough Frith in Scotland.

Brwick upon Tweed in Yorkshire.

Of or belonging to Beverley The Hundred of Bray in Yorkshire.

Binchester in the Bishoprick of Durham.

Bism in Berkshire.

Part of the North Riding of Yorkshire.

Blancford in Dorsetshire.

Blanc-Castle in Monmouthshire.

Balance of Balance in Cumberland.

Old-town in Herefordshire.

Buckingham and Buckenham.

Bacon in Suffolk.

Edenborough Frith.

See Antiquarium.

Boverton in Gloucestershire.

Glamorganshire.

St. Ellens Cape.

Brwick upon Tweed.

Botley near Oxford.

Brougham in Westmorland.

Burgh in Yorkshire.

Brackly in Northamptonshire.

Brampton near Huntingdon.

Branchester in Norfolk.

The City of Worcester.

Brecknock.

Rochester in Northumberland.

Overborow in Lancashire.

Brampton in Cumberland.

Brenford in Middlesex.

Inhabitants of Yorkshire, Lancashire, Bishoprick of Durham, Westmorland and Cumberland.

Tork City.

Broughton in Hampshire.

The City of Bristol.

Brougham in Westmorland.

Hyonfield in Denbighshire.

Buxton in Derbyshire.

Budeforde.

C A

C O

Budeforda,
Bullæam flurum;
Burrium;
Bustelli domus.

Bedforda.
Buelth in Brecknockshire.
Wike in Monmouthshire.
Bustleham or Bisham in
Berks.

C.

Acacia,
Calcaria,
Calatum,
Caermardinia,
Caerperis,
Caer-severus,
Caer Lincoir,
Caesaria,
Caesaro-magus,

Tadcaster or Helcaster in
Yorkshire.

Caermardin.
Portchester.
Sarisbury.
Lincoln.
Farsy Ile.
Burgsted, also Barnt-wood
in Essex.

Calacum,
Calagum,

Overborow in Lancashire, al-
so Whealpe-Castle in Cam-
berland.

Calaterium nemus,

The Forest of Galtres in
Yorkshire.

Calderus flu.

The River Calder in York-
shire.

Caledonia,

Scotland.

Caledonius Oceanus,

The Scottish Sea.

Caleva vel

Wallingford in Berkshire.

Calenia;

Calne in Wiltshire.

Calna,

Coldingham.

Calonia,

Camalest-Castle.

Camalestum,

Ruines near Almondbury in
Yorkshire.

Camboricum,

Grandchester.

Camboriturum,

Cambridge.

Cambretonium,

A place by Breton Spring
in Suffolk.

Cambretovium,

Wales.

Cambria,

Camoladunum,

Camolodunum,

Camudolanum,

Camulodunum,

Campordunum,

Candalia,

Candida casa,

Canonium,

Maldon in Essex.

See Cambodunum.

Kendal in Westmerland.

Whiteberne in Scotland.

Canenden in Essex, also

Clemesford in the same

County.

Cambridge University.

Kent.

The Northforeland.

Canterbury City.

See Gabrosetum.

Colehill in Flintshire.

The ancient City of Carlisle
in Cumberland.

Cardigan

Cardimbin } in Wales.

Cardarvon

The Hundred of Caybow in
Hertfordshire.

The Islands of Syll.

The Old City of Veru-
lam.

Cardigania,

Cardimbinia,

Cardarvon,

Cassi,

Cassii,

Cassiterides,

Cassivelauni oppidum,

Castra alata vel

Castrum alatum,

Castrum puellarum,

Edenborough City in Scot-
land.

Castra exploratorum, Burgh on the Sands in
Cumberland.

Castrum de vies,
Castrodunum,
Cataracta flu.

The Dewises in Wiltshire.
The River Swale in Rich-
mondshire.

Cataracta,
Cataractonium;

Catarick Bridge,

Catuellani;

Cattidudani;

Cathricludani;

Cattieuchlani;

The People of Buckingham,
Bedford and Hertford
shires.

Cavoda;

Camood in Yorkshire.

Cauna;

See Conventus.

Causennæ;

See Gausenna.

Causennis;

Cavum Deiram,

Holderesse in Yorkshire.
People about Cheshire, as

Ceangi & Cangi,

Camden supposes.

Cenion? flu.

The River by Tergeny in
Cornwall.

Ceitho.

Centum fontes,

Hundreds kelde.

Cerdici vadum,

Chardford in Hampshire.

Ceretica,

Cardiganshire.

Cernielienfa Cænobii-

Cerne in Dorsetshire.

um,

Ceroti insula,

Chertsey in Surrey.

Certesia,

Cervi insula,

Hartlepool.

Cestria,

Chester City.

Cestrum,

Chineglissi castrum,

Kenelworth-Castle.

Cheva;

Kew in Surrey.

Chirca,

Chirke in Denbighshire.

Ciceastria,

Chichester in Sussex.

Cicestria;

Cilurinum,

Colterton or Colterford in
Northumberland.

Cilurnum,

Cirencestria,

Cirester or Cirencester in
Gloucestershire.

Clara-fontanus,

Shirburn.

Clarufons,

Claudia,

Claudiocestria;

Gloucester City.

Clevum,

Glevum,

Clausentum,

Southampton.

Coccium,

Ribblechester in Lancashire.

Cokarus,

The River Cokar in Lancashire
and Coke in Yorkshire.

Cocarus;

Colonia,

Caludi,

Coldingham in Scotland.

Coldania,

Colcestria,

Colchester in Essex.

Colonia,

Colonia victricensis;

Maldon in Essex.

Columum,

Colebrooke in Middlesex.

Combretonium,

Brettenham in Suffolk.

Combretonium,

The Barony of Kendale.

Concangium,

Congleton in Cheshire.

Condate,

Chester upon the Street in
the Bishoprick of Dur-
ham.

Condereim,

Chelmsford in Essex.

Cononium,

Caerbian upon Conway in
Carnarvonshire.

Conovium,

DA

D U

[illegible]

E

E Ast-sexena,	Essex.
Effexia,	The Isle of Alderney.
Ebodia,	
Eboracum,	York City.
Eburnacum,	St. Edmundsbury in Suffolk.
Edmundi Burgum,	The Vale of Alisbury in Buckinghamshires.
Eilecuriana vallis,	The River Eimot in Cumberland.
Elihotus flu.	
Eliensis insula,	The Isle of Ely.
Ellephantum,	Eltham in Kent.
Ellandunum,	The old name of Winton in Wiltshire.
Eminetior,	Eaton-nese in Suffolk.
Eovefum,	Evesham or Evesholme in Worcestershire.
Evestanum,	
Epeliacum vel	Pea-Castle in Cumberland.
Epianum,	Uttorseter in Staffordshire,
Eracetum,	according to Camden.
Elimenon Gabranton-	Everby in Yorkshire.
nicorum,	
Eubonia,	The Isle of Man.
Euentodus flu.	The River Eventode in Oxfordshire.
Elcumbium Regium,	The Royal Exchange in London.
Peritilium five	
Burna,	The River Exa in Devonshire.
Exa flu.	
Exonia,	Excester City in Devonshire.
Exploratorum Castra,	Burgh upon Sands in Cumberland.

F

F Ala flu.	The River Vale in Cornwall.
Falensis portus,	Falmouth in Cornwall.
Fanum Albani,	St. Albans in Hertfordshire.
Fanum Iluti,	St. Lantwit in Glamorganshire.
Fanum Ivonis Persin,	St. Ives in Huntingtombire.
Fanum Leonis,	Leominster.
Fanum Neoti,	St. Neots in Huntingtombire.
Fanum Reguli,	St. Andrews in Scotland.
Fanum Stephani,	Kirkby Stephen in Westmerland.
Faustini villa,	St. Edmundsbury in Suffolk.
Fawenses,	Inhabitants of Fow in Cornwall.
Fibnlega,	
Fibrolega,	Beverley in Yorkshire.
Flintia,	Flint town.
Fons Brigide,	Bridewell in London.
Fons clarus,	Shirburne in Dorsetshire.
Fontanensis Ecclesia,	Wells in Somersetshire.
Fretum Britannicum,	
Fretum Gallicum,	The straight of Calles.
Fretum Morinorum,	
Fromus flu.	The River Frome in Gloucestershire that runs to Bristol; also another in Dorsetshire.

G

G Abrantonicorum,	
Salutaris portus,	Suerby in Yorkshire.
Gabrantovicorum,	
Portuosus sinus,	Gatehead in the Bishoprick
Gabrocentum vel	of Durham, hard by
Gabrosentum,	New-Castle.
Galva vel	Wallwick in Northumber-
Gallava,	land.
Gallatam vel	Wheat or Wheat-Castle in
Gallagum,	Cumberland.
Ganganorum Prom.	Lhyme in Carnarvonsbire.
Gariononum,	Tarmonth in North-
Garrienis vel	
Gargenus flu.	Tare River in North-
Gaulenhai,	Brig-caster in Lincoln-
	shire.
Galdetonda,	Gulford in Surrey.
Gennania,	North-wales.
Gefloriacum,	The straight between Bri-
	tain and the Isle of
	Wight.
Gavilli,	People over against the Isle of
	Wight.
	Inhabitants of the Penn.
Girvi,	
Glamorgania vel	Glamorganshire.
Glamorgantia,	
Glaconia,	Glastonbury in Somersetshire.
Glaconia,	
Glavorna,	Gloucester.
Glevum,	
Gloceria,	
Glenus flu.	The Glen in Northumber-
	land.
Glovoceastria,	Gloucester City.
Glovernia,	
Gobanium,	Abergevenny in Flintshire.
Goderici castrum,	Goodrich Castle in Hertford-
	shire.
Granta,	Cambridge as some think.
Gravenda,	
Grevia,	Gravensend in Kent.
Grehovicus,	
Grenovium,	Greenswich in Kent.
Greenwicum,	
Guala,	Wales.
Guerfia fl.	The River wharf in York-
	shire.
Guldonicus clivus,	Guy-cliffe near Warwick.
Guthethia,	Wales.
Guldforda,	Gildford in Surrey.
Gumicastrum,	Godmanchester near Hun-
Gumicastrum,	tington.

H.

Habitancum,Hadriani murus,
Hagulfstadia,

Hagulfstadunum,

Hamptunia,
Hansus flu.Hantonia,
Harefordia,
Hastinga,
Helenum prom.
Helienſe canobium,
Henlega,
Herculis prom.
Herefordia,Hertfordia,
Hertfordiæ comitatus,
Hesperides,
Hibernia,
Hincheſega,
Hithinus portus,
Hodneius flu.Hollandia vel
Hoilandia,
Homelea flu.Hrofi civitas,
Humbra flu.Hondeſdena,
Hunſdonia,
Hunſgreſforda,
Huntingdonia,
Huntingdonenſis ager,
Hurſtelega,
Hwicci,Hydropolis,
Hymbronenſes,Riſingham in Northumber-
land.The Piſts wall.
Auſton upon Tyne in Northum-
berland.Hexham in the Biſhoprick
of Durham.
Southampton in Hamſhire.
The River Hans in Stafford-
ſhire.Hamſhire.
Hereford City.
Haſtings in Suſſex.
The Lands end.
Ely City in Cambridgſhire.
Henley upon Thames.
Herſey point in Devonſhire.
Hereford City in Hereford-
ſhire.Hertford.
Hertfordſhire.
The Sorlings or Scilly Iſles.
Ireland.
Hinkeſey near Oxford.
Hitb in Kent.
The Hodney in Brecknock-
ſhire.Holland, a part of Lincoln-
ſhire.
The River Humble over a-
gainſt the Iſle of Wight
in Hamſhire.Rocheſter in Kent.
The River Nummer in York-
ſhire.Hunſlow in Herefordſhire.
Hungerford in Berkeſhire.
Huntington Town.
Huntingtonſhire.
Hurſley.
People of Worceſterſhire, and
about Severne.
Dorcheſter in Oxfordſhire.
People of Northumberland.

I.

Iameſa,
Iamiſſa,
Iccius portus,
Inceni,Iciani vel
Iſanos,
Iſta,
Idumania,
Idumanum æſtuari-
um,
Idumanus flu.
Ingiruum,The Thames according to
Ptolomy.
Caſlin Withſand.
People of Suffolke, Norfolk,
Cambridge and Hunting-
ton ſhires.Ichborow in Norfolk.
The Iſle of Wight.
The River Stone.The River Blackwater in
Eſſex.
Iarrow in Biſhoprick of Dur-
ham, where Beda flouriſhed.

Infula,

Infula ſitutum,

Infula veſta,
Veſtis veſteſis,
Interamna,

Iſaca vel

Iſca,
Iſannavantia,
Iſannavaria,
Iſannavatia,
Iſca Danmoniorum,
Iſca, legio Auguſta,
Iſce legua Auguſti,
Iſchalis,Iſidis inſula,
Iſidis vadum,
Iſis flu.

Iſuria.

Iſurium,

Itium Gallia,

Ituma flu.

Julia ſtrata,

Egnehſham or Eniſham in Ox-
fordſhire.
The little Iſle of Silley in
Severn.The Iſle of Wight.
Twinburne in Dorſet-
ſhire.Chriſt Church in Hamſhire.
The River Eze in Devon-
ſhire.
Northampton, or rather We-
don on the ſtreet in Nor-
thamptonſhire.
Exceſter City.Caerleon City in Glamorgan-
ſhire.
Inelcheſter, commonly cal-
led Ilcheſter in Somers-
ſetſhire.Ouſney by Oxford.
Oxford or Oxſord.
The River Iſis by Oxford.
The Ouſe that runs by Bucking-
ham.Another Ouſe that runs by
York.

Yorkſhire.

Aldburgh or Oldburrow in
Yorkſhire.
Viſſan or Whiſſan near Caſtle
in France.The River Eden in Weſt-
merland and Cumberland.A high way not far from Car-
leon in Wales.

K.

Kanus flu.
Keneta flu.

Keresburga,

Keſtevena,

Kinebantum caſtrum,

The Kin in Weſtmerland.
The River Kened in Wilt-
ſhire.
Caribroke-Caſtle in the
Iſle of Wight.
Keſtoven, a part of Lin-
colnſhire.
Kimbolton-Caſtle in Hun-
tingtonſhire.

L.

Laſtodorum,
Laſtodorum,
Laſtorodum,
Laſtorudum,
Lagecium,

Lamitha,

Lancaſtria,
Lancaſtrenſis Comita-
tus,Landava,
Langanum prom.Latterworth or Longb-
rough.

Bedford.

Stony-Stratford.

Caſtleford near Pomfret in
Yorkſhire.Lambeth in Surrey near Lon-
don.

Lancaſter-Town,

Lancſhire.

Llandafſſin Wales.

Lbryne Promontory in Car-
narvonſhire.

L E

M A

Levatres,
Levatres,
Levatris,
Levatris,
Lea flu.

} *Bromes upon Stanemore in
Richmondsire.*

*The River Lea in Hertford-
shire.*

Legecestria,
Legacestria,
Legio 2. Augusta,
Legio 6. Nicephorica,
Legio 6. Victrix,
Legio 20. Victrix,
Legra,
Lemaus portus,
Lemanii,
Leogoria,

} *The Town of Leicester in
Leicestershire.*

Carleon in Wales.

York City.

Chester City.

The River at Leicester.

Lime in Kent.

Lime-hill or Lime in Kent.

Leicester in Leicestershire.

Leonense canobium,
Leovense,
Leovense,
Leonis Monastrium,
Leonis castrum,

} *Lemster in Herefordshire.*

*Lyons, alias Holt-Castle in
Denbighshire.*

Logbor in South Wales.

England.

Lichfield.

Lidford in Devonshire.

The River Rother.

The Isle of Ramsey.

Lime-house near London.

*Shirwood Forest in Notting-
hamshire.*

Lincolnia,
Lindecollinum,
Lindesfarna,
Lindisfarnum,
Lindescia,
Lindisia,
Lindocolina,
Lindon,
Linnun Regis,
vel Linum,
Lisia,

} *Lincoln City.*

*Holy-Island or Farn-Isle on the
Coast of Northum.*

*Lindsey, a third part of
Lincolnshire.*

Lincoln City.

Linne in Norfolk.

*An Isle called Gulfe near
the utmost part of Corn-
wall.*

Lomithis vel
Lonuthis,
Londinum,
Londinium,
Londinia,
Londonia,
Lundonia,
Loncastris,
Longovcium,
Lucopibia,
Luguballia,
Luguballum,
Luguvallum,
Lychefeldia,

} *Lambeth in Surrey.*

*The famous City of Lon-
don.*

Lancaster or Lomaster.

*Carlisle City in Cumber-
land.*

*Lichfield City in Stafford-
shire.*

M.

MAdus,
Magæ,
Magi,
Magesetæ,

} *Maydston in Kent.*

Old Rudnor.

People of Radnorshire.

Magnitum,
Magioninum,
Magiovinium,
Magiovintum,
Maglova,
Maglona,
Magna,

} *Dunstable in Bedfordshire.*

*Macleanth in Montgomery-
shire.*

*Chester in the Wall near to
Haltwessell in Northum-
berland.*

Portsmouth or Porchester.

Magnus portus,
Maidulphicuria,
Maidulphi urbs,
Maldunenses Mona-
sterium,
Malmesburium,
Mala Platea,
Mailoria wallica,
Malvernia,
Malvernum,
Malus passus,
Mammucium,
Mancunium,
Mandueffedum,

} *Malmesbury in Wiltshire.*

Ilstreet in Cheshire.

Bromfield in Denbighshire.

Malverne in Worcestershire.

Malpas in Cheshire.

Manchester in Lancashire.

*Manchester in Warwick-
shire.*

The Isle of Man.

People of that Island.

Man-Castle in Lancaster.

The British Sea.

The Severne Sea.

*A place near Belvoyr Castle
in Lincolnshire.*

Carmarthenshire.

The people of that Shire.

Carmarthen Town.

*Masham-Bridge in York-
shire.*

*St. Mawes-Castle in Corn-
wall.*

Mannia,
Mannenſes,
Manucium,
Mare Britannicum,
Mare fabrianum,
Margidunum,
Margitudum,
Maridunenſis ager,
Maridunenſes,
Maridunum,
Massamenſis pons,

Mauditi castrum,

Mealdunum &
Camalodunum,

Meandari,

Meata,

Meanuari,

Medeguaia flu.

Medena,

Mediolanium,

Mediterranei,

Angli,

Melanclani,

Meldunum,

Menavia,

Menevia,

Mercia,

Mercii,

Merionithia,

Mervinia,

Merlebrigia,

Metaris æstuarium,

Mevania,

Michelnia,

Middlesexia,

Mitfordia,

Molis flu.

} *Maldon in Essex.*

People of part of Hantshire.

*People of Northumber-
land about the Wall.*

*Meanborow; also Eastmean
and Westmean Hundreds
in Hantsire.*

The River Medway in Kent.

*New-Port in the Isle of
Wight.*

Middleham in Yorkshire.

} *Staffordshire men.*

People of Silley.

Malmesbury in Wiltshire.

The Isle of Man.

St. Davids in Wales.

Middle England.

Middle Englishmen.

} *Merionethshire.*

Marleborough.

The Washes in Norfolk.

The Isle of Man.

Michelney in Somersetshire.

Middlesex.

*Mitford in Northumber-
land.*

The Mole in Surrey.

Mona,
Monabia, *The Isle of Anglesey.
The Isle of Man, according
to Pliny.*

Monasterium de Bello, *Battell Abbey.*
Monasterium de Melfa, *Meaux Abbey in Yorkshire.*
Monmuthia, *Monmouth.*
Monochapolis, *New-Castle in Northumber-
land.*

Monoeda, *The Isle of Man, according
to Ptolomy.*

Mons acutus, *Montacute in Somerset-
shire.*

Mons dives,
Mons Gomericus, *Richmond in Surrey.*
Montgomerya, *Montgomery in Wales.*
Mons Michaelis, *St. Michaels Mount in Corn-
wall.*

Mons rosarum, *Montrose in Scotland.*
Monumetha, *Monmouth.*
Monumethia, *Morsby in Cumberland.*
Morbium,
Moricamba, *The Bay of Cardronack in
Cumberland.*
Moricambe æstuari-
um,
Mordunum, vel
Ridunum, *Seaton in Devonshire.*
Mortuus Lacus,
Muridunum, set
Maridunum, *Mortlake in Surrey.*
Murimintum, *Carmarthen.*
pro Murivindum, *Silcester in Hampshire.*

N.

Naesbia,
Nauticus sinus, *Naseby in Northamptonshire.
Reather or Rother-bitb, vul-
garly called Redriff.*

Neomagus vel
Noviomagus, *According to
LLhuiid & Guil-
ford, according to in
Talbat Croydon, by Camden
and Somner, Surrey.
Woodcot about
Croyford.*

Neoportus,
Neoportus Paganelli-
cus, *Newport.
Newport-Paganel in Bucking-
hamshire.*

Nidum,
Nidus, *Neath in Glamorganshire.*
Nigera, *Blackney in Norfolk.*
Nivicollini, *Snowdon Hills in Carnarvon-
shire.*

Nordumbra,
Nordovolca, *Northumberland.*
Nordolcia, *Norfolk.*
Northanimbria,
Northantonia, *Northumberland.*
Northantonienfis ager, *Northampton.*
Northimbria, *Northamptonshire.*
Northumbria, *Northumberland.*
Nortobricum, *Norton-Hall in Yorkshire.*
Nordoricum, *Nottingham.*
Nottinghamia,
Nottinghamienfis ager, *Nottinghamshire.*
Novantum prom.
Noviodunum, *Cockermouth.
Newenden in Kent upon
the Rother.*

Novius,
Novus Burgus, *Convey.
Newport in the Isle of
Wight.*

Novum castellum, *New-Castle in Northumber-
land.*

Novum forum,
Novum mercatum, *New Market in Suffolk.*
Novus portus,
Nubiria, *New Port.*
Nulla ejusmodi,
Nulli par,
Nulli secunda, *Newberry in Berkshire.*

Nonfuch in Surrey.

O.

Oceanus virgivi-
us, *The Virgician or Western
Ocean.*

Occidentales Brito-
nes, *Western Britains, or Inhabi-
tants of Cornwall.*

Occidua wallia,
Ocellum prom. *Cornwall.
Holderneffe, also Kelmsy in
Yorkshire.*

Ockhamptonia,
Ocrinum prom. *Ockhampton in Devonshire.
The Lizard point in Corn-
wall.*

Octopitarum prom. *St. David's head in Pem-
brokeshire in Wales.*

Olenacum,
Olicana, *Edenborow in Cumberland.
likely, also Halifax, both
in Yorkshire.*

Ordevices,
Ordovices,
Orus flu.
Osca flu.
Orthona,
Ottadeni,
Ottadini,
Ottalini,
Ottatini,
Ottaforda,
Ovinia insula,
Oxenforda,
Oxonia,
Oxonium,
Oxinaga, *People of Northwales.
The River Ore in Suffolk.
The River Uske in Wales.
Ithancester in Essex.*

People of Northumberland.

Oxford in Kent.
The Isle of Shepey in Kent.

Oxford City.

Ozney Isle in Kent.

P.

Palus falsa,
Parathalassia,
Parisi,
Pegelandia, *Pulchely in Carnarvonshire.
Walsingham in Norfolk;
People of Holderneffe.
Peckirke not far from Crom-
land.*

Penbrochia,
Pendinas, *Pembroke in Wales.
Pendennis-Castle in Corn-
wall.*

Penguernum,
Penlinnia, *Shrewsbury-Town.
A place in Merioneth-
shire, where is the Lake
Tagit, whence rises the
River Dee.*

Pennocrucium,
Pennorintum,
Pente flu.
Pescora,
Perfora, *Penkridge in Staffordshire.
Penin in Cornwall.
The River Pant in Essex.*

Perfhere in Worcestershire.

Peterillus,

Peterillus, } *The Peterill in Cumberland.*
 Peterus flu. }
 Petriburgus, } *Peterborow City in North-*
 Petropolis, } *amptonshire.*
 Petuaria vel } *Bevely in Yorkshire.*
 Petuaria Parifiorum, }
 Pevensea, } *Pevensey in Suffex.*
 Pictavia, } *The Countrey of the Picts.*
 Picti, } *The Picts, a people of Bri-*
 } *tain.*
 Placentia, } *The Royal Palace at Green-*
 } *wich.*
 Pontes, } *Reading in Berkshire, also*
 } *Colebrooke in Buckingham-*
 } *shire.*
 Pons Burgensis, } *Barrowbridge in Yorkshire.*
 Ad Pontem, } *Paunton in Lincolnshire.*
 Pons Ælii, } *Pont-Eland in Northumber-*
 } *land.*
 Pontus flu. } *The Pont in Northumber-*
 } *land.*
 Portesmutha, } *Portsmouth in Hantsire.*
 Portlandia, }
 Portunia insula, } *Portland Isle.*
 Portus magnus, } *Portsmouth or Portchester.*
 Portus Oñium, }
 Portus salutis, } *Cromarty.*
 Powisia, } *Powys, a part of Wales.*
 Præsidium, } *Warwick Town.*
 Prætorium, } *Patrington in Yorkshire.*
 Procolitia, } *Prudborow or Prodborow-Castle*
 Protolitia, } *in Northumberland.*
 Profundum vadum, } *Depeford.*
 Putenega, } *Putney in Sursey.*

R.

R Adnoris, } *Radnor in Radnorshire.*
 Raga, }
 Ragæ, } *Ratford or Ratford.*
 Ragancia, } *Ralegh in Essex.*
 Ramesburia, } *Ramesbury in Wiltshire.*
 Ratax, } *Leicester Town.*
 Rato stabiis flu. } *The Taffe in Glamorgan-*
 } *shire.*
 Readingum, } *Reading in Berkshire.*
 Regiodunum, } *Kingston upon Hull in York-*
 Hullinum, } *shire.*
 Regiodunum Thame- } *Kingston upon Thames.*
 linum, }
 Regis Burgus, } *Queenborow in Kent.*
 Regni, } *People of Surrey, Suffex,*
 } *and the Sea-Coasts of*
 } *Hantsire.*
 Regulbium, } *Reculner in Kent.*
 Repandunum, } *Repton in Derbyshire.*
 Rhedus flu. } *The Read in Northumber-*
 } *land.*
 } *The Rhibell in Lancaster.*
 Rhibellus flu. }
 Ritubi portus, } *Reptacester, Ruptimuth,*
 Rhutubi portus, } *Richberge, now Rich-*
 Rhutupia statio, } *borow near Sandwich in*
 Rhitupis portus, } *Kent.*
 Rutupius portus, }
 Rhobogdium prom. } *Faire foreland.*
 Rebodunum, } *Riblechesser in Lancashire.*
 Richmundia, } *Richmund in Yorkshire, also*
 Richmondia, } *the same in Surrey.*

Ripadium,
 Ripodum,
 Robertinus pons,
 Rodecotanus pons;

Rojbis,
 Roffa,
 Roisæ oppidum,
 Roffia,

Rugnitunia,
 Ruitonia,
 Rutunia,
 Ruber clivus;

Rupis aurea,

Ruthunia,
 Rutlandia,
 Rutunium;

Repton in Derbyshire.
Rippon in Yorkshire.
Rother-Bridge in Suffex.
Radcot-Bridge on the River
Isis in Oxfordshire.

} *Rochester City in Kent.*
Royston in Cambridgehire.
Rosse-land in Cornwall, also
Rose in Pembrokeshire.

} *Riton upon Dunsmore in War-*
wickshire.

Redcliffe near London, vul-
garly Ratcliffe.
Gold cliffe in Monmouth-
shire.

Ratbin in Denbighshire.
Ratlandshire.
Rowton in Shropshire.

S.

S Abaudia,
 Sabriana vel
 Sabrina,
 Sabulovicum,
 Sacra insula,

Sacra sylva,
 Salenæ,
 Salinæ,
 Salisburria,
 Sarisburia,
 Salopesburia,
 Salopia,
 Salopia comitatus,
 Salaria,
 Sandicum,
 Sandovicus,
 Sanwicum,
 Sarnia,
 Saverna,
 Sceptonia,
 Schellega,
 Schirburnia,
 Scona,
 Scoti,
 Scotia,
 Scorberia,
 Scorbesberia,
 Sebastia, altera,
 Legio,
 Secandunum,

Segedunum,
 Segelocum,
 Segelogum,

Segontium,

Seguntium,
 Selburgi tumulus,
 Seolecia,

The Savoy in London.
 } *The River Severn.*
Sandwich in Kent.
Holy Isle by Northumber-
land.
Halifax in Yorkshire.

} *Salady in Bedfordshire.*
 } *Salisbury City in Wiltshire.*

} *Shrewsbury.*
Shropshire.
Sawtry in Huntingdonshire.

} *Sandwich in Kent.*

Garnsey Island.
The Severne.
Shaftsbury in Dorsetshire.
Chelsey by London.
Shirburne in Dorsetshire.
Scone in Scotland.
Scots.
Scotland.

} *Shrewsbury Town.*

} *Liskard in Cornwall.*

Seckington in Warwick-
shire.

Seghill in Northumberland.
 } *Aulert in Shirewood in Not-*
tinghamshire.

Agle in Lincolnshire.
Littleborow in Nottingham-
shire.

Caer-sejont near Carnarvon
Town.

Silchester in Hantsire.
Selbury Hill in Wiltshire.

Seolsey or Selsy in Suffex,
whence the best Cockles.

Setantiorum
Palus,
Seteja æstuar,
Severia,
Sharpennoria,

Shenum,

Sigdeles,
Sillina: insulæ,
Silefia,

Silura,

Silures,
Sinnodunum,

Sitomagus,
Simomagus,
Sinomagus,
Slepa,

Snawdonia,

Somaridunum,
Somerfetenfis
comitatus,
Somertunenfis
comitatus,
Sorbiodunum,
Sorviodunum,
Sorurodunum,
Southamptonia,
Southeria,
Surria,
Southerlandia,
Southria,
Southriana,
Southregienfes,
Southfexena,
Southfexia,
Southwella,

Spinaram insula,

Spinæ,

Staffordia,
Stanfordia,
Stenum,
Stringulia,

Strivillina,
Stuccia vel
Stucia flu.
Sturodunum,

Sturus flu.
Sulcalva flu.
Sudoverca,
Suffolcia,
Suffolicia,
Sullomacæ.
Sullonica,

Sunningum,
Salimnos insula,

} Winander Meere in Lanca-
shire.

Dee-mouth.

Salisbury City.

Sharpnere in the Isle of
Wight.

Shene or Richmond in Sur-
rey.

} The Isles of Scilly.

Seolfey or Selsey in Suffex,
sometimes a Bishops See.
The little Isle of Silley in
Severne, as Camden
thinks.

People of Southwales.
Sinnodum Hill near Walling-
ford in Berkshire.

} Thetford in Norfolk.

The old Name of St. Ives in
Huntingtonshire.
Snowdon Forest in Carnar-
vonshire.

Somerton in Lincolnshire.

} Somersetshire.

} Old Salisbury.

Southampton.

} The County of Surrey.

Southerland in Scotland.

} Surrey.

People of Surrey.

} The County of Suffex.

Southwell in Nottingham-
shire.

Thorney Isle the old name
of Westminster.

Newberry in Berkshire, and
Spene near Newbury.

Stafford Town.

Stanford in Lincolnshire.

Stene in Northamptonshire.
Cherpslow in Monmouth-
shire.

Sterling in Scotland.

} Strith in Cardiganshire.

Stourton and Sturminster in
Dorsetshire.

The Stoure in Derbshire.
The Swale in Yorkshire.

Southwark.

} Suffolk.

Brockley-Hill near Ellestre
in Hertfordshire, also Bar-
net or Edgworth Shetney.

Sanning by Reading.

Salmey Isle not far from
Mildford Haven.

T Affus flu.

Taizalos &
Vernicones,
Tama flu.

Tama oppid.

Tamara flu.

Tamawordina,

Tamara oppid.

Tamifis,
Tanfelda,
Tavistokia,
Tedfordia,
Teefis &
Teefa,
Tegæus Lacus.

Terentos flu.

Tetocuria,

Thanaton } insula,

Thanatos }
Theobaldenfes
ædes,

Theodorunum,

Theoci curia,

Theokesberia,

Therma,

Thongum,

Thonodunum,

Thornega,

Thorncia,

Tichfelda,

Tina &

Tinna,

Tindolana,

Tinemutha,

Tintagium,

Toliapis,

Toliatis,

Torcefria,

Totonefium,

Trehenta,

Trenovantum,

Trimontium,

Trinoantes,

Trinobantes,

Trinovantes,

Tripontium,

Trifanton,

Trifantonis portus,

Tucfis,

Tunnocellum,

Tunocellum,

T.

The Taffe in Glamorgan-
shire.

} People of Northumber-
land.

The River Tame in Oxford-
shire, another in Staf-
fordshire.

Tame, a Town in Oxford-
shire.

The River Tamar in Corn-
wall.

Tamworth in Stafford-
shire.

Tamarton in Cornwall.

The Thames.

Tanfield in Yorkshire.

Tavestock in Devonshire.

Thetford in Norfolk.

} The River Tees in the Bi-
shoprick of Durham.

The Lake Tagit or Pemble
Meere in Merionethshire
in Wales.

The River Trent.

Tedbury in Gloucestershire.

} The Isle of Tanet in Kent.

Theobalds House in Hertford-
shire.

Wells in Somersetshire.

} Tewkesbury in Gloucester-
shire.

The Bath City.

Thong-Castle in Lincoln-
shire.

Taunton in Somersetshire.

Thornege, the old name of
Westminster.

Thorney in Cambridgeshire.

Tichfield in Hantsire.

} The River Tine in Nor-
thumberland.

Winchester in the Wall.

Tinmouth in Northamber-
land.

Tintagell in Cornwall.

} The Isle of Shepey in Kent.

Towcester in Northampton-
shire.

Totnesse in Devonshire.

The River Trent.

London.

Atterith, a Town in Scot-
land.

} People of Middlesex and Essex.

Towcester in Northampton-
shire.

} Southampton.

Berwick upon Tweed.

} Tinmouth in Northumber-
land.

Y A

Y A

Y.

Yarmuthia,
Jernmuthia,
Garanonum,
Garienis ofium,

} Yarmouth in Norfolk,

Y Arum,
Garienis,
Garienus,

Yare in Yorkshire.

} Yare River in Norfolk.

FINIS.



